



GSA Office of Governmentwide Policy

Class Deviation CD-2021-13
September 30, 2021

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM: JEFFREY A. KOSES DocuSigned by:
Jeffrey A. Koses
21BD80B9E8AC4A0...
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

SUBJECT: FAR Class Deviation - Implementation of Executive Order 14042,
Ensuring Adequate COVID Safety Protocols for Federal Contractors

A. Purpose.

This memorandum approves a class deviation from the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, signed September 9, 2021.

This memorandum also provides instructions for the GSA acquisition workforce on when to include a new clause in GSA solicitations and contracts and “contract-like instruments” (e.g., licenses, outleases, and tenders).

The instructions include GSA-specific implementation timelines for solicitations, new contracts, and existing contracts.

B. Background.

In order to ensure the health and safety of the federal workforce and contractor community, the President signed [E.O. 14042](#). The E.O. promotes economy and efficiency in Federal procurement by ensuring that contractors and subcontractors that contract with the Federal Government provide COVID-19 safeguards. The E.O. directs the Safer Federal Workforce Taskforce to issue guidance to provide implementation details and the Federal Acquisition Regulatory (FAR) Council to establish a new clause to be included in solicitations and contracts and contract-like instruments.

The Safer Federal Workforce Task Force issued guidance on September 24, 2021 at [saferfederalworkforce.gov](https://www.saferfederalworkforce.gov) which requires:

- Vaccination of covered contractor employees,¹ except in limited circumstances where an employee is legally entitled to an accommodation;²
- Requirements related to masking and physical distancing while in covered contractor³ workplaces; and
- Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.

On September 30, 2021, the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2021-03 regarding implementation of E.O. 14042, which serves as consultation with the CAAC Chair to authorize agencies to issue their own class deviations (see Attachment A). This class deviation sets forth GSA's implementation of the E.O. and CAAC Letter.

C. Applicability.

1. Subject to section D of this deviation, the clause is required in the following:
 - Contracts or contract-like instruments for services, construction, or a leasehold interest in real property exceeding the simplified acquisition threshold (SAT) or simplified lease acquisition threshold (SLAT);
 - Contracts or contract-like instruments for services covered by the Service Contract Act, 41 U.S.C. § 6701, *et seq.*; exceeding the SAT/SLAT
 - Contracts or contract-like instruments for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR § 4.133(b) exceeding the SAT/SLAT; or,
 - Contracts or contract-like instruments entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public, exceeding the SAT/SLAT.
2. GSA is strongly encouraging the clause in the following:⁴
 - Contracts or subcontracts whose value is equal to or less than the SAT/SLAT; or,
 - Contracts or subcontracts solely for the manufacturing of products, unless exempted by FAS or PBS specific guidance. See Attachments C and D.
3. The new clause is not applicable to:
 - Micro-Purchases;
 - Site Acquisition;

¹ Covered contractor employee means any full-time or part-time employee of a covered contractor working on or in connection with a covered contract or working at a covered contractor workplace. This includes employees of covered contractors who are not themselves working on or in connection with a covered contract.

² Note that contractor employees working from home must be vaccinated but do not have to follow the CDC masking and social distancing protocols, because an employee's personal residence is not a covered contractor workplace. See Safer Federal Workforce Task Force FAQs for Federal Contractors.

³ Covered contractor means a prime contractor or subcontractor at any tier who is party to a covered contract.

⁴ While the E.O. does not require the clause in these circumstances, the Safer Federal Workforce Task Force guidance strongly encourages agencies to include it.

- Sales of surplus real and personal property;
- Solicitations and contracts if performance is outside the United States or its outlying areas (the exclusion is limited to employees who are performing work only outside the U.S. or its outlying areas); or
- Contracts and subcontracts with Indian Tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638) (the exclusion would not apply to a procurement contract or subcontract under the FAR to an Indian-owned or tribally-owned business entity).

D. Requirements.

1. Solicitations.

- a. ***New Solicitations.*** Contracting officers shall include the clause at FAR **52.223-99**, Ensuring Adequate COVID Safety Protocols for Federal Contractors in new applicable solicitations issued on or after **October 15, 2021**.
- b. ***Existing Solicitations.*** Contracting officers shall either amend the solicitation to include the clause at FAR 52.223-99 or incorporate it into the award of the apparent successful offeror for applicable solicitations that were issued prior to **October 15, 2021**, that have not closed, or awards that have not been made by **October 15, 2021**.
- c. New and existing solicitations for items described in section C.1. and C.2. of this deviation shall include the clause. Solicitations for items described in section C.3. of this deviation shall not include the clause.

2. Contracts.

- a. ***New Contracts.*** Contracting officers shall include the clause at FAR **52.223-99** in new applicable contracts, lease acquisitions, and “contract-like instruments” awarded on or after **October 15, 2021**.

New contracts for items described in section C.1. and C.2. of this deviation shall include the clause. New contracts for items described in section C.3. of this deviation shall not include the clause.

- b. ***Existing Contracts.*** Contracting officers shall send a cover letter⁵ and modification request to add the clause at **FAR 52.223-99** for existing contracts

⁵ The cover letter, among other things, informs the contractor that the modification is strongly encouraged for contracts described in section C.1. and C.2. of this deviation. Also, it informs the contractor that the modification is mandatory before GSA will renew, extend the period of performance, or exercise an option for contracts described in section C.1. of this deviation.

including indefinite delivery, indefinite quantity (IDIQ) contracts,⁶ and contract-like instruments, described in section C.1. and C.2. of this deviation.

- The modification must be bilateral.
- The language in Attachment B shall be used in the cover letter.
- Contracting officers are ultimately responsible for sending the cover letter and modification request to contractors; however, GSA will use a technology solution to automatically send the cover letter and modification request to the contractor for most GSA contracts. The FAS and PBS specific guidance in Attachments C and D identifies each GSA contracting program that will send the modification using a central mass modification process.⁷

Existing contracts for items described in section C.3. of this deviation shall not include the clause or cover letter.

Contracting officers shall complete as many modifications as possible before **November 14, 2021**. For IDIQs, contracting activities may take interim actions if a signed modification is not returned to GSA by **November 14, 2021**, such as:

- Temporarily hiding contractor information on GSA websites and/or e-tools
- Flagging contractors that have not accepted the modification

Contracting officers shall not exercise an option period or extend the period of performance for existing contracts for items described in section C.1. of this deviation unless the contract has been modified to include the new clause.

E. Authority.

This class deviation is issued under the authority of FAR 1.404 and General Services Administration Acquisition Manual (GSAM) 501.404.

This deviation is issued following consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) in accordance with FAR 1.404(a) and GSAM 501.404(a).

F. Effective Date.

This deviation is effective immediately and remains in effect until the FAR and GSAR are amended or until cancelled.

G. Cancellation.

SPE Memo SPE-2021-16 *Return to Facilities Contractor Guidance* is cancelled in its entirety by this class deviation.

⁶ For IDIQs, once the modification is accepted, it applies to all existing and future orders. Orders placed prior to an IDIQ contract modification can include the clause at the order level, if desired.

⁷ The Office of Administrative Services shall refer to PBS guidance for the automated modifications sent using EASi.

H. Resources.

The Acquisition Portal's [Public Health Emergencies topic page](#) will be updated with additional resources, including GSA FAQs, talking points, and links to all related policies. Questions can be directed to the points of contact listed on the [Acquisition Portal](#).

Attachments

- Attachment A - [CAAC Letter 2021-03](#)
- Attachment B - [Sample Cover Letter](#)
- Attachment C - [FAS Specific Guidance](#)
- Attachment D - [PBS Specific Guidance](#)



Color coding of this template is as follows:

BLACK - standard text

BLUE - text that must be filled in by acquisition team

[Date]

[Contractor's Name]

[Contractor's Street Address]

[Contractor's City, State and Zip Code]

Subject: Contract Modification - New Clause for Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - [Procurement Instrument Identifier/Lease Contract Number]

Dear [Contractor's POC name],

GSA appreciates the hard work and dedication of our contractors. The health and safety of GSA employees, contractors and their families is our top priority. In order to ensure the health and safety of the Federal workforce and contractor community, the President signed [Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors](#). The requirements in the Executive Order are being implemented via a FAR deviation. The clause in the FAR deviation will be incorporated into GSA contracts via a bilateral modification.

If you hold a GSA contract for services, construction, or a leasehold interest in property that exceeds the simplified acquisition threshold (SAT) or the simplified lease acquisition threshold (SLAT), GSA strongly encourages you to accept this contract modification at this time. The modification is **mandatory** before GSA will renew, extend the period of performance of your contract, or exercise an option.

Acceptance of the contract modification is also **mandatory** for all Federal Supply Schedule contractors.

If you hold a contract at or below the SAT/SLAT or a contract only for products, GSA strongly encourages you to accept the modification.

For IDIQ contracts, including all Federal Supply Schedule contracts, you must sign the modification by **November 14, 2021** to be eligible for new orders. GSA may take

interim actions if a signed modification is not returned to GSA by **November 14, 2021**, such as:

- Temporarily hiding contractor information on GSA websites and/or e-tools
- Flagging contractors that have not accepted the modification

Once an IDIQ contract is modified, the clause applies to the exercise of options on all existing orders and to all future orders.

Based on the urgency of this issue, please return your signed contract modification as soon as possible and no later than **November 14, 2021**.

For more information, please visit <https://gsa.gov/covid19>.

CD-2021-13 EO 14042 COVID Safety Protocols for Federal Contractors:
Attachment C - Guidance Specific to the Federal Acquisition Service

The following provides FAS-specific guidance for implementing GSA Class Deviation 2021-13:

Applicability

FAS will include the clause at **FAR 52.223-99** in all new applicable contracts and “contract-like instruments” awarded on or after October 15, 2021.

FAS will bilaterally modify all existing contracts and “contract-like instruments” awarded before October 15, 2021, to include the clause at FAR 52.223-99, as applicable. Additional clarifications and exceptions regarding applicability of FAS contract vehicles are provided below.

1. **Federal Supply Schedule (FSS):** FAS COs shall incorporate the clause at FAR 52.223-99, in all new and existing FSS contracts above the micro-purchase threshold, including contracts that are solely for products. The Safer Federal Workforce Task Force guidance strongly encourages agencies to incorporate the clause into contracts that are solely for products. It is not administratively feasible to distinguish FSS contracts that are solely for products from FSS contracts that are primarily for products but also include ancillary-type services (e.g., installation, maintenance, training, ancillary services acquired via the Order-Level Materials SIN, etc.). Requiring the clause in all FSS contracts will simplify compliance tracking, vendor communication, and customer messaging efforts.
2. **Blanket Purchase Agreements (BPAs):** For BPAs established under FAR Part 13 procedures, applicable orders and calls must include the clause at FAR 52.223-99 for all new and existing orders and calls unless the clause is already incorporated into the BPA. For applicable BPAs established under FAR Part 8 procedures, the objective is to get the clause into the Schedule contract as soon as possible. If necessary, FAS COs shall incorporate FAR 52.223-99 for all new and existing orders and calls awarded unless the clause is already part of the contract under which the BPA was established or incorporated into the BPA. FAS COs may, at their discretion, modify (by bilateral modification) existing BPAs to incorporate the clause at FAR 52.223-99.
3. **Government-wide Acquisition Contracts (GWACs), Multi Agency Contracts (MACs), and Agency-specific IDV/IDIQs:** FAS COs shall incorporate FAR 52.223-99, in all new and existing GWACs, MACs, and IDV/IDIQ contracts, including contracts that are solely for products, except as provided below. The

Safer Federal Workforce Task Force guidance strongly encourages agencies to incorporate the clause into contracts that are solely for products. Requiring the clause in all GWAC and MAC contracts will simplify compliance tracking, vendor communication, and customer messaging efforts.

- a. **GSA SmartPay® Program:** FAS COs shall incorporate FAR Clause 52.223-99 in the GSA SmartPay master contracts prior to exercise of option or extension. Agencies shall not issue new task orders until the master contract has been modified, unless FAR Clause 52.223-99 is incorporated at the order level. All charge card transactions under the program may continue unabated prior to modification of the master contracts.
 - b. **GSA City Pair Program:** FAS COs shall incorporate FAR Clause 52.223-99 for all GSA City Pair Program new contract awards or prior to extending existing GSA City Pair contracts. Transactions under the GSA City Pair Program (i.e., booking flights) may continue without modifying existing GSA City Pair contracts.
 - c. **Automotive IDV/IDIQs:** The FAS COs should strongly encourage Automotive contractors to accept bilateral modifications to incorporate FAR Clause 52.223-99. FAR Clause 52.223-99 is not required in Automotive contracts because they are contracts solely for products.
4. **Orders:** On or after November 14, 2021, prior to placing orders, COs shall review the contract to ensure that the clause at FAR 52.223-99 has been incorporated in the underlying contract. If the clause has not been incorporated in the contract, COs shall include the clause in the solicitation and resultant order, as applicable.

For existing orders against IDV/IDIQ contracts (e.g., FSS, GWACs, and MACs), COs shall review the contract's terms and conditions to determine whether the clause at FAR Clause 52.223-99 has been incorporated. If the underlying contract has not been modified to include the clause, or the underlying contract has expired, the order-level CO shall modify the order (by bilateral modification) to include FAR Clause 52.223-99 prior to exercise of the option period or extension.

5. **Assisted Acquisitions:**

- a. For acquisitions where GSA is not the funding agency, COs shall follow policies of the funding agency.

- b. For applicable open market contracts, FAS COs should include FAR Clause 52.223-99 in solicitations and new awards.
 - c. For orders against IDV/IDIQs, FAS CO shall follow the guidance in paragraph 4.
- 6. **Commercial Solutions Opening (CSO):** GSA's pilot program is not governed by the FAR and uses CSO procedures to competitively award innovative commercial items for products, technology and services. Nevertheless, CSOs are considered "contract-like instruments" and are subject to the requirements of the E.O. and GSA Class Deviation. FAS COs shall incorporate FAR Clause 52.223-99 in CSO contracts. See GSAM 571 for additional guidance about CSOs.
- 7. **Commercial Platforms:** The FAS CO should strongly encourage Commercial Platform contractors to accept bilateral modifications to incorporate FAR Clause 52.223-99. FAR Clause 52.223-99 is not required in the Commercial Platform contracts because they are no-cost service contracts whose value is less than the simplified acquisition threshold. Orders placed under Commercial Platform contracts are equal to or less than the micro-purchase threshold and are not required to incorporate FAR Clause 52.223-99.
- 8. **Tenders of Service:** FAS uses a tender procurement method for freight and household goods transportation and other services. FAS considers tenders of service a "contract-like instrument" under the E.O. FAS will therefore modify applicable terms and conditions documents (e.g., a GSA Standard Tender of Service) to include language equivalent to FAR 52.223-99. FAS will communicate to agencies that any bills of lading which exceed the simplified acquisition threshold should include language equivalent to FAR 52.223-99. Consistent with the Safer Federal Workforce Task Force, FAS will strongly encourage any bills of lading at or below the simplified acquisition threshold to include language equivalent to FAR 52.223-99, but it is not required

Implementation

- 1. **Modifications:**
 - a. Modification Begin Date: FAS will begin to bilaterally modify all existing contracts and "contract-like instruments" awarded before October 15, 2021 to include the clause at FAR 52.223-99, as applicable.
 - b. Automated Modifications: FAS will use an automated mass modification process for applicable contracts in FSS-19.

- c. Non-automated Modifications: FAS COs are responsible for modifying all applicable contracts that are not in FSS-19.

2. Internal Compliance Tracking Dashboard:

- a. FAS Office of Policy and Compliance (OPC) will develop an internal dashboard showing the compliance of FAS contracts modified to include FAR 52.223-99.
- b. FAS OPC will regularly notify FAS Heads of Contract Activity (HCAs) with modification status on FAS contracts.
- c. For non-automated modifications, FAS HCAs will provide regular status updates to FAS OPC.

3. Customer Support:

- a. FAS OPC will develop an external dashboard showing the compliance status of MAS/GWAC/MAC contracts to aid our customer agencies in identifying which contracts have been modified to include FAR 52.223-99. A link to this dashboard will be provided on customer facing tools such as GSAAAdvantage and eBay.
- b. For FSS contracts, COs can also review the current terms and conditions in [Contracts Online](#) to determine if the contractor is in compliance. For contracts that are manually modified (i.e., not a mass modification), the FAS CO shall provide modification status updates using a spreadsheet link to be provided by OPC.

4. Acquisition Workforce Training: Training will be provided to the FAS acquisition workforce by the FAS OPC and OGP's Office of Acquisition Policy.

5. Contractor Communications:

- a. All contractor communications will be posted at [GSA's COVID website](#).
- b. An advance Interact Notice will be posted to inform FAS contract vehicle holders on solicitation updates and modification requirements.

CD-2021-13 EO 14042 COVID Safety Protocols for Federal Contractors:
Attachment D - Guidance Specific to the Public Buildings Service

The following provides PBS-specific guidance for implementing GSA Class Deviation 2021-13:

1. Acquisitions.

A. Mass Modification Process

a. Mass Modification (i.e. “The Bot”) Points of Contact (POCs)

- Each Region must identify a POC and alternate on the Mass Modification POC List to work with OAM no later than October 5, 2021.
- The Mass Modification POCs are responsible for reviewing the PBS E.O. 14042 Dashboard and tracking regional progress.

b. Modifications to Existing Contracts and Contract-Like Instruments in EASi

- The following contract actions will be modified through the Bot process:
 - Stand-Alone Contracts
 - Blanket Purchase Agreements (BPAs)
 - BPA Calls
 - Indefinite-Delivery Indefinite-Quantity (IDIQ) Contracts
 - Task Orders and Delivery Orders
 - Purchase Orders

c. The Bot Process

- Bilateral modifications will be partially automated using a bot.
- The mass modifications for existing contracts and contract-like instruments will incorporate the clause at FAR 52.223-99.
- The Bot will create the cover letters and modifications to existing contracts and contract-like instruments in EASi and email them to the contractors. The CO for each contract will be copied on each email.
- Each contractor must sign the modification and return it to the CO. After the contractor returns the signed modification, the CO must sign and finalize the modification in EASi (including preparing an FPDS report) and return a copy of the signed modification to the contractor.
- It is anticipated that the Bot process will commence on or about October 8, 2021 and will be completed by October 15, 2021.

B. Contracts and Contract-Like Instruments outside of EASi

The Bot process will only work for contracts and contract-like instruments that are in EASi. For those actions that are outside of the EASi system, the CO must follow normal procedures for bilaterally modifying the action to include the clause at FAR 52.223-99. The CO shall send the cover letter provided in Attachment B of the class deviation along with the modification request.

C. Existing Solicitations

- Existing solicitations must be amended to include the clause at FAR 52.223-99.

- Existing solicitations include solicitations for stand-alone contracts, BPAs, BPA calls, IDIQ contracts, Delivery Orders, Task Orders, and Purchase Orders.
- ***NOTE:*** For orders and GSA Schedule BPAs, if it becomes known by the Contracting Officer that the base IDIQ has already been modified to include the clause at FAR 52.223-99, then the solicitation does not need to be modified. To see if the base IDIQ has been modified:
 - For FSS contracts, review the contract's current terms and conditions in [Contracts Online](#)
 - For PBS IDIQs, review the PBS E.O. 14042 Dashboard or contact the IDV CO
 - For all other IDIQs, contact the IDIQ CO or review the program website, if available.
- If offers have already been received by the Government, in lieu of amending the solicitation, the CO may incorporate the clause at FAR 52.223-99 into the contract/order of the apparent successful offeror, which must be signed bilaterally.

D. New Solicitations (as of October 15, 2021).

- The CO must include the clause at FAR 52.223-99 in the solicitation and resultant award.
- Updated PBS Construction Contract Templates are available in EASi and on [InSite](#).

E. Solicitations for orders under IDIQs.

- *Until the base IDIQ has been modified* to include the clause at FAR 52.223-99 the CO must also include this clause in the solicitation and resultant orders.
- To see if the base IDIQ has been modified:
 - For FSS contracts, review the contract's current terms and conditions in [Contracts Online](#).
 - For PBS IDIQs, review the PBS E.O. 14042 Dashboard or contact the IDV CO.
 - For all other IDIQs, contact the IDIQ CO or review the program website, if available.

2. Leases.

A. Mass Modification Process - Bilateral Lease Amendments to Existing PBS Leases (Issuance of Lease Amendments to Lessors for signature)

- PBS Office of Leasing will issue bilateral lease amendments to Lessors for signature.
- All existing leases, regardless of dollar value, will be modified through this process.
- Bilateral amendments will be generated and sent using automation (e.g., DocuSign, Google script, Macro, etc).
- The mass modifications for existing leases will incorporate the clause at FAR 52.223-99.

- Each Lessor signs the modification and returns it to the Administrative Lease Contracting Officer (ALCO). After the Lessor returns the signed modification, the ALCO will countersign and return the fully signed modification to the Lessor.
- ALCOs will be responsible for executing the bilateral lease amendments and tracking progress/status.
- The PBS Office of Leasing will issue lease amendments to lessors for signature no later than October 15, 2021.

B. Existing Request for Lease Proposals (RLPs)

- For leases awarded on or after October 15, 2021:
 - Existing solicitations must be amended to include the clause at FAR 52.223-99, if Final Proposals Revisions (FPR) have not been received prior to October 15, 2021.
- If FPR has been received, in lieu of reopening discussions, the LCO may incorporate the clause at FAR 52.223-99 into the contract of the apparent successful offeror, which must be signed bilaterally.

C. New RLPs (issued on or after October 15, 2021)

- The LCO must include the clause at FAR 52.223-99 in the RLP and resultant lease contract by using updated General Clauses (GSA Forms 3517A or 3517B).
- Prior to October 15, 2021, Office of Leasing will update the General Clauses (GSA Forms 3517A and 3517B) to incorporate the clause at FAR 52.223-99. LCOs must use the updated General Clauses in new RLP packages. Updated GSA Forms 3517A and 3517B will be available on the Office of Leasing Google site and in the G-REX Templates Management Library.

3. PBS Training.

A. Implementation of E.O. 14042 and Class Deviation 2021-01 Training

Training will be provided to the PBS acquisition workforce regarding PBS-specific implementation and guidance regarding PBS acquisition programs.

B. Mass Modification Informational Sessions

The Office of Acquisition Management and the Office of Leasing will host mass modification information sessions for COs, ALCOs, and Mass Modification POCs on a regular basis regarding the mass modification process, the PBS E.O. 14042 Dashboard and tracking regional progress.

From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#); [Becker, James L. \(GSFC-LP010\)](#)
Subject: FW: FW: [EXTERNAL] Fwd: Issuance of CAAC letter 2021-03, Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors
Date: Friday, October 1, 2021 10:13:59 AM
Attachments: [GSA Class Deviation CD-2021-13.pdf](#)

The GSA letter might be helpful for the example mod that you're developing. FYI, it actually states that they will "hide" contractor information on GSA websites for those that don't comply.

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Friday, October 01, 2021 11:11 AM
To: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Subject: FW: FW: [EXTERNAL] Fwd: Issuance of CAAC letter 2021-03, Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors

FYSA. We will get ours out shortly.

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Friday, October 1, 2021 11:10 AM
To: Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Cc: Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>; Becker, James L. (GSFC-LP010) <james.l.becker@nasa.gov>
Subject: FW: FW: [EXTERNAL] Fwd: Issuance of CAAC letter 2021-03, Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors

GSA has issued their class deviation.

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Friday, October 01, 2021 10:56 AM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Cc: Neilson, Linda W SES OSD OUSD A-S (USA) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Subject: Re: FW: [EXTERNAL] Fwd: Issuance of CAAC letter 2021-03, Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors

GSA has released its class deviation to its workforce, and now has posted it. Attached is a copy for your awareness.

On Fri, Oct 1, 2021 at 10:26 AM Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov> wrote:

Bill and Linda,

We are briefing our Centers this morning and making any final edits to our deviations before we release it.

Please let me know what time you guys plan to issue your deviations so we can synchronize and issue our deviation close to the same time today.

Thanks,

Julia

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Friday, October 1, 2021 10:14 AM
To: Blum, Mathew C. <Mathew_C_Blum@omb.eop.gov>; Manolache, Iulia <Iulia_Z_Manolache@omb.eop.gov>; Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Cc: Janet Fry - M1V1CA <janet.fry@gsa.gov>; Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Subject: [EXTERNAL] Fwd: Issuance of CAAC letter 2021-03, Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors

FYI

----- Forwarded message -----

From: **General Services Administration** <gsa@notify.gsa.gov>

Date: Fri, Oct 1, 2021 at 9:55 AM

Subject: Issuance of CAAC letter 2021-03, Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors

To: <william.clark@gsa.gov>

The Civilian Agency Acquisition Council (CAAC) Chair issued CAAC Letter 2021-03 on September 30, 2021.

This CAAC Letter is being circulated to serve as consultation in accordance with FAR 1.404, authorizing agencies to issue a class deviation to implement [Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors](#).

To view and download current and previous CAAC Letters, please visit <https://www.acquisition.gov/content/caac-letters>.

If you have any questions or require additional information about this Letter, don't hesitate to contact us at acquisition_gov.systemadmin@gsa.gov.

This is an official U. S. General Services Administration Email from Acquisition.gov
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This email was sent to william.clark@gsa.gov on behalf of General Services Administration 1800 F St. NW Washington, DC 20405 866-606-8220

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Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

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Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
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202-219-1813
Virtual Mtg (b) (6)

The image shows a web browser window displaying a highly obfuscated JavaScript file. The browser's address bar shows a file path: `file:///C:/Users/Administrator/Desktop/.../index.html`. The page title is "index.html". The main content area displays the source code of the JavaScript file, which is heavily minified and contains numerous comments in Chinese. The code includes various function calls, variable declarations, and conditional statements, all heavily obfuscated. Comments are interspersed throughout the code, providing context in Chinese. The browser's developer tools are open, showing the source code of the file. The code includes various function calls, variable declarations, and conditional statements, all heavily obfuscated. Comments are interspersed throughout the code, providing context in Chinese. The browser's address bar shows a file path, and the page title is "index.html".

From: [William Clark - M1V1C](#)
To: [&CAAC_RelatedDistributionList](#)
Subject: [EXTERNAL] Fwd: FYA: Copy of DoD FAR Class Deviation to implement COVID safety protocols for EO 14042
Date: Friday, October 1, 2021 11:44:16 AM
Attachments: [TAB A - 2021-O0009 Deviation Memo - Final \(signed\).pdf](#)

Dear CAAC Members:

Now sharing DoD's class deviation to implement COVID safety protocols for EO 14042 (See Attached). You can also access it at https://www.acq.osd.mil/dpap/dars/class_deviations.html.

----- Forwarded message -----

From: **William Clark - M1V1C** <william.clark@gsa.gov>
Date: Fri, Oct 1, 2021 at 11:42 AM
Subject: FYA: Copy of GSA FAR Class Deviation to implement COVID safety protocols for EO 14042
To: &CAAC_RelatedDistributionList <CAAC_RelatedDistributionList@gsa.gov>

Dear CAAC members:

On September 30, 2021, GSA Senior Procurement Executive (SPE) Jeff Koses signed [Class Deviation CD-2021-13](#), which approves a class deviation from the FAR to implement the COVID safety protocols required by Executive Order (EO) 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.

Just sharing a copy for your awareness.

Thanks,

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

--

Bill Clark, Director
General Services Administration
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202-219-1813
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--

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The image shows a document page with a light blue header at the top. The header contains several lines of text, including a date "2020-03-10" and a time "10:10". Below the header, there is a large white rectangular redaction box that covers the majority of the page content. The redaction box is labeled "Redacted Content" in a small font. To the right of the redaction box, there is a vertical line of text that reads "Page 1 of 1". At the bottom of the page, there is a footer section with a date "2020-03-10" and a time "10:10". The footer also contains a small logo and some text that is partially obscured by the redaction box.

From: [McAlister, Beverly D. \(HQ-IM050\)](#)
To: [Shinn, Stephen A. \(HQ-IA000\)](#); [Alfred, Terrance \(HQ-IM010\)](#); [Kroskey, Susan P. \(KSC-GG000\)](#); [Comstock, Doug \(HQ-IA000\)](#); [Kerwin, Mary D. \(HQ-IA000\)](#)
Cc: [Roets, William \(HQ-LP010\)](#); [Smith, Curtis M. \(HQ-LP011\)](#); [Ramos, Frank M. \(AFRC-800\)](#); [Crank, Antanese \(HQ-IM030\)](#); [Williams, Cassandra \(NSSC-XD041\)](#); [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#); [HOLLOWELL, THERESA L. \(HQ-IM051\)](#); [Wunderlick, Linda K \(GSFC-150.0\)\[ASRC FEDERAL SYSTEM SOLUTIONS\]](#)
Subject: FAR Council Guidance on EO 14042
Date: Friday, October 1, 2021 2:03:15 PM

Happy New Year OP and CFO Team,

Sharing for your awareness the message below from the CFO Council meeting I attended yesterday. During the meeting OMB clearly communicated that the Procurement community will be made aware of EO 14042 and the urgency placed on getting the new guidance placed in the FAR.

Below link is initial direction to Agencies related to COVID Safety Protocols for Federal Contractors in all Agency contracts.

Grants and some Non grant Cooperative Agreements are excluded from this requirement however, exceptions should follow the EO guidance.

Beverly

Beverly D. McAlister
Associate Chief Financial Officer
300 E Street, SW
Washington, DC 20546-001
beverly.d.mcalister@nasa.gov

Office: (202) 358-2829
Cell: (b) (6)

From: CFOC Advisory <CFOC-ADVISORY@LISTSERV.GSA.GOV> **On Behalf Of** CFO Council Support
Sent: Friday, October 1, 2021 1:11 PM
To: CFOC-ADVISORY@LISTSERV.GSA.GOV
Subject: [EXTERNAL] [CFOC-ADVISORY] FAR Council Guidance on EO 14042

Good Morning CFO Community,

Thank you for attending yesterday's Special Ad Hoc Meeting on Executive Order 14042. Yesterday afternoon, the FAR Council released initial direction to support agencies in their issuance of deviations to incorporate a clause into their solicitations and contracts that implements guidance issued by the Safer Federal Workforce Task Force pursuant to Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.

See message below that was sent to the CAOC last night:

This afternoon, the FAR Council released initial direction to support agencies in their issuance of deviations to incorporate a clause into their solicitations and contracts that implements guidance issued by the Safer Federal Workforce Task Force pursuant to Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.

Here is a direct link to the document on OFPP's homepage: <https://www.whitehouse.gov/wp-content/uploads/2021/09/FAR-Council-Guidance-on-Agency-Issuance-of-Deviations-to-Implement-EO-14042.pdf>

As explained in the FAR Council's memo:

- Agencies should promptly review the FAR Council guidance and clause and act expeditiously to issue their deviations, so that their contracting officers may begin to apply the clause on or before October 15.
- Agencies should also review, and update as necessary, any relevant guidance previously provided to contractors to ensure consistency with the deviated FAR text.
- If a civilian agency intends to use clause text different than the deviated clause text provided by the FAR Council, the agency must consult with the CAAC Chair.
- Civilian agencies should furnish a copy of their approved class deviations (including direction to the workforce, prescription for use of clause, and clause text) to the FAR Secretariat by emailing the deviation to GSARegSec@gsa.gov by October 15th.

During Friday's office hours (October 1 from 1:30-2:30), we will take questions on the FAR Council's guidance and the Task Force will take additional questions on their guidance for contractors.

We know this is an extraordinarily busy time of year and greatly appreciate your ongoing partnership and commitment to acquisition excellence.

Your OFPP colleagues and the members of the FAR Council wish each of you and your teams a happy fiscal new year!

Thank you for your attention.

Best regards,

Your CFOC Support Team

To unsubscribe from the CFOC-ADVISORY list, create a new email message, addressed to CFOC-ADVISORY-unsubscribe-request@listserv.gsa.gov. The message content does not matter and the sender's email address will be removed from the list.

To: [Kauffman, Victoria \(HQ-MD000\)](#)
Cc: [Wise, Julia B. \(HQ-LP011\)](#); [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#); [Becker, James L. \(GSFC-LP010\)](#)
Subject: FW: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits
Date: Monday, November 1, 2021 9:13:11 AM

Hi Tory:

See below information regarding lawsuits against mandatory COVID vaccinations of federal contractors.

From: William Clark - M1V1C <william.clark@gsa.gov>

Sent: Monday, November 01, 2021 10:05 AM

To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Janet Fry - M1V1CA <janet.fry@gsa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>; Blum, Mathew C. (b) (6); Manolache, Iulia

(b) (6)

Subject: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits

Update -

There are multiple lawsuits now being reported. I have found media references to four lawsuits in Federal courts (Florida, Georgia, Missouri, Texas). DOJ could run a search in the Federal Court filing database (Pacer) to find any other Complaints; however, there should be the usual service of process on GSA where we are a named defendant, which is all four I found (Jeff is a named defendant in two).

The lawsuits are asking for immediate injunctions. We may see court hearings on the injunctions as early as midweek.

The Georgia court lawsuit lists a number of other civilian agencies (and several agencies within DHS without actually naming DHS). Those agencies OGCs will want to be involved as their Secretaries/Administrators will be served, and their contracts directly covered by any injunction, besides involving OGCs for DoD, NASA and OMB.

LINKS

--Georgia lawsuit (also was attached to last night's email) (Georgia, Alabama, Idaho, Kansas, South Carolina, Utah, West Virginia)

[Microsoft Word - BOARD OF REGENTS - Complaint FINAL.DOC \(alabamaag.gov\)](#)

--Missouri lawsuit (Missouri, Nebraska, Alaska, Arkansas, Iowa, Montana, New Hampshire, North Dakota, South Dakota, Wyoming)

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[complaint.pdf \(myfloridalegal.com\)](#)

--Texas lawsuit: (Texas only)

[20211029_TX v Biden et al \(file marked\).pdf \(texasattorneygeneral.gov\)](#)

--

Bill Clark, Director

General Services Administration

Office of Government-wide Acquisition Policy

Office of Acquisition Policy

Office of Government-wide Policy

202-219-1813

Virtual Mtg (b) (6)

From: [Kauffman, Victoria \(HQ-MD000\)](#)
To: [Thompson, Diane \(HQ-LP011\)](#)
Subject: RE: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits
Date: Monday, November 1, 2021 10:40:56 AM

Hi Diane, Thanks for this info and for keeping us posted. I will do the same from my end.

Hope all is well wit you and yours.

Tory

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Monday, November 1, 2021 10:18 AM
To: Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>; Becker, James L. (GSFC-LP010) <james.l.becker@nasa.gov>
Subject: FW: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits

Hi Tory:

See below information regarding lawsuits, all mentioning NASA and the other FAR Council agencies; against mandatory COVID vaccinations of federal contractors.

Regards,
Diane

Diane Thompson
FAR Regulatory Manager, NASA
Procurement Management and Policy Division
Office of Procurement
National Aeronautics and Space Administration
300 E St SW, Washington DC 20546
202.358.0514 (office)
(b) (6) (cell)
Website: <https://www.nasa.gov/office/procurement>



From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Monday, November 01, 2021 10:05 AM

To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Janet Fry - M1V1CA <janet.fry@gsa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>; Blum, Mathew C. <(b) (6)>; Manolache, Iulia

(b) (6)

Subject: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits

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LINKS

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[Microsoft Word - BOARD OF REGENTS - Complaint FINAL.DOC \(alabamaag.gov\)](#)

--Missouri lawsuit (Missouri, Nebraska, Alaska, Arkansas, Iowa, Montana, New Hampshire, North Dakota, South Dakota, Wyoming)

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--Florida lawsuit: (Florida only) (thanks for Jeff for this link)

[complaint.pdf \(myfloridalegal.com\)](#)

--Texas lawsuit: (Texas only)

[20211029_TX v Biden et al \(file marked\).pdf \(texasattorneygeneral.gov\)](#)

--

Bill Clark, Director

General Services Administration

Office of Government-wide Acquisition Policy

Office of Acquisition Policy

Office of Government-wide Policy

202-219-1813

Virtual Mtg (b) (6)

From: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
To: [Becker, James L. \(GSFC-LP010\)](#)
Cc: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Subject: FW: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits
Date: Monday, November 1, 2021 1:09:06 PM

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Monday, November 1, 2021 2:09 PM
To: Barber, Scott (HQ-MD000) <scott.barber@nasa.gov>; Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Detko, Jason T. (MSFC-PS01) <jason.t.detko@nasa.gov>
Cc: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>; Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>
Subject: RE: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits

There are apparently 10 states total now suing, see this link for the other six states that are suing-
<https://www.usnews.com/news/politics/articles/2021-10-29/10-states-sue-biden-administration-over-covid-vaccine-rule>.

Julia Wise| Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters
W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

From: Barber, Scott (HQ-MD000) <scott.barber@nasa.gov>
Sent: Monday, November 1, 2021 1:02 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Detko, Jason T. (MSFC-PS01) <jason.t.detko@nasa.gov>
Cc: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>; Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>
Subject: RE: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits

Email Already Processed

Email Already Processed

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Monday, November 1, 2021 12:40 PM
To: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Detko, Jason T. (MSFC-PS01) <jason.t.detko@nasa.gov>; Barber, Scott (HQ-MD000) <scott.barber@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>
Subject: FW: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits

Email Already Processed

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Monday, November 1, 2021 10:05 AM
To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Janet Fry - M1V1CA <janet.fry@gsa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>; Blum, Mathew C. (b) (6); Manolache, Iulia (b) (6)
Subject: [EXTERNAL] FYI: COVID Vaccine Mandate Lawsuits

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as their Secretaries/Administrators will be served, and their contracts directly covered by any injunction, besides involving OGCs for DoD, NASA and OMB.

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[Microsoft Word - BOARD OF REGENTS - Complaint FINAL.DOC \(alabamaag.gov\)](#)

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--Texas lawsuit: (Texas only)

[20211029_TX v Biden et al \(file marked\).pdf \(texasattorneygeneral.gov\)](#)

--

Bill Clark, Director

General Services Administration

Office of Government-wide Acquisition Policy

Office of Acquisition Policy

Office of Government-wide Policy

202-219-1813

Virtual Mtg (b) (6)

To: [Thompson, Diane \(HQ-LP011\)](#)
Cc: [Kauffman, Victoria \(HQ-MD000\)](#)
Subject: RE: Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment
Date: Wednesday, December 1, 2021 4:28:49 PM

Diane,

I believe we are procuring a service as we are leasing a car for a short period of time and not buying the car (the product) to own.

Please share the summary with GSA regarding the NAICS code and how we procure it.

Thank you,

Julia
Julia Wise| Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters
W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Wednesday, December 1, 2021 5:09 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Cc: Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Subject: FW: Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Email Already Processed

From: Thompson, Diane (HQ-LP011)
Sent: Monday, November 29, 2021 12:52 PM
To: Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>

Subject: Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Email Already Processed

From: William Clark - M1V1C <william.clark@gsa.gov>

Sent: Wednesday, November 17, 2021 4:54 PM

To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Janet Fry - M1V1CA <janet.fry@gsa.gov>

Subject: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Hi Linda and Diane,

(b) (5)



(b) (5)

[REDACTED]

[REDACTED]

Regards,

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

From: [William Clark - M1V1C](#)
To: [&CAAC_RelatedDistributionList](#)
Subject: [EXTERNAL] Fwd: [CAO-COUNCIL] Update on Federal Contractor Vaccination Requirement
Date: Thursday, November 4, 2021 12:14:08 PM
Attachments: [USG Background EO 14042 Contractor COVID Safety 20211104 for agencies.pdf](#)

FYI

Sent to OMB/WH for Consultation

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

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From: [Wise, Julia B. \(HQ-LP011\)](#)
To: MLoveday@doc.gov
Cc: [Wise, Julia B. \(HQ-LP011\)](#); [Thompson, Diane \(HQ-LP011\)](#); [Becker, James L. \(GSFC-LP010\)](#)
Subject: FW: NASA's COVID Class Deviation Issued
Date: Tuesday, October 5, 2021 12:25:28 PM
Attachments: [pcd21-03.pdf](#)

Hi Marcelle,

Diane is out this week so I am responding to your question below. The response below has been provided to our Procurement Officers and contracting staff at all NASA Centers:

"We've received questions related to inserting the NASA deviation clause included in PCD 21-03 in GSA orders. GSA is inserting their deviated clause in their master contracts, and this clause requires flowdown of the GSA deviation clause to subcontracts above the *simplified acquisition threshold*. In accordance with Executive Order 14042 and associated guidance, NASA has decided to broadly apply the NASA deviation clause in its acquisitions by requiring flowdown of the deviation clause to subcontracts above the *micro-purchase threshold*. Contracting officer's shall insert the NASA deviation clause in all new and existing GSA orders."

Thank you,

Julia B. Wise
Director, Procurement Management and Policy Division
Office of Procurement
National Aeronautics and Space Administration (NASA)
300 E Street, SW, Suite 5M18
Washington, DC, 20546-0001
Phone: (202) 358-0020
Fax: (202) 358-3220
Website: <https://www.nasa.gov/office/procurement>



Referred to Department of Commerce

Referred to Department of Commerce

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Friday, October 1, 2021 3:01 PM
To: &CAAC_RelatedDistributionList <CAAC_RelatedDistributionList@gsa.gov>
Subject: Fwd: NASA's COVID Class Deviation Issued

FYI

----- Forwarded message -----

From: **Thompson, Diane (HQ-LP011)** <diane.thompson@nasa.gov>
Date: Fri, Oct 1, 2021 at 2:05 PM
Subject: NASA's COVID Class Deviation Issued
To: William Clark - M1V1C <william.clark@gsa.gov>, Janet Fry - M1V1CA <janet.fry@gsa.gov>, Linda W. Neilson (linda.w.neilson.civ@mail.mil) <linda.w.neilson.civ@mail.mil>, Moore, Carrie M CIV OSD OUSD A-S (USA) <carrie.m.moore8.civ@mail.mil>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>, Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>

Email Already Processed

Email Already Processed

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

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From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Subject: FW: [EXTERNAL] Re: TIME SENSITIVE - Draft Supplemental Guidance on Temporary Injunction
Date: Monday, December 6, 2021 9:05:13 AM

FYSA

From: Jeffrey Koses - M1V <jeffrey.koses@gsa.gov>
Sent: Monday, December 06, 2021 9:49 AM
To: Blum, Mathew C. EOP/OMB <Mathew_C._Blum@omb.eop.gov>
Cc: Tenaglia, John M SES OSD OUSD A-S (USA) <john.m.tenaglia2.civ@mail.mil>; Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Linda W. Neilson (linda.w.neilson.civ@mail.mil) <linda.w.neilson.civ@mail.mil>; William Clark - M1V1C <william.clark@gsa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>; Glennon, Michael J SES OSD OGC (USA) <michael.j.glennon2.civ@mail.mil>; janet.harney@gsa.gov; Janet Fry - M1V1AC <janet.fry@gsa.gov>; Calisti - AF (scott.r.calisti.civ@mail.mil) <scott.r.calisti.civ@mail.mil>; Field, Lesley A. EOP/OMB <Lesley_A._Field@omb.eop.gov>; Kuk, Jennifer J. EOP/OMB <Jennifer_J_Kuk@omb.eop.gov>; Manolache, Iulia Z. EOP/OMB <Iulia_Z_Manolache@omb.eop.gov>
Subject: [EXTERNAL] Re: TIME SENSITIVE - Draft Supplemental Guidance on Temporary Injunction

(b) (5)



(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)

A large rectangular area of the document is completely redacted with a solid black box.

Jeffrey A. Koses
Senior Procurement Executive
U.S. General Services Administration
703.605.5535

Sent to OMB/WH for Consultation

The bottom half of the page is entirely redacted with a solid black box.

Referred to Department of Defense

From: Jeffrey Koses - M1V <jeffrey.koses@gsa.gov>

Sent: Wednesday, December 8, 2021 1:24 PM

To: Tenaglia, John M SES OSD OUSD A-S (USA) <john.m.tenaglia2.civ@mail.mil>; Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>

Subject: [Non-DoD Source] Fwd: FW: Update - CPO Memo to Contractors on Preliminary Injunction EO 14042 on SAM.gov

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

DHS's guidance

Jeffrey A. Koses
Senior Procurement Executive
U.S. General Services Administration
703.605.5535

----- Forwarded message -----

From: **Roger Waldron** <RWaldron@thecgp.org <Caution-mailto:RWaldron@thecgp.org>>

Date: Wed, Dec 8, 2021 at 1:21 PM

Subject: FW: Update - CPO Memo to Contractors on Preliminary Injunction EO 14042 on SAM.gov

To: jeffrey.koses@gsa.gov <Caution-mailto:jeffrey.koses@gsa.gov>
<jeffrey.koses@gsa.gov <Caution-mailto:jeffrey.koses@gsa.gov>>

awarded on or after November 14 from solicitations issued before October 15 or new orders awarded on or after November 14 from solicitations issued before October 15 under existing indefinite-delivery contracts.

Your workforce's continued vigilance in implementing the COVID clause in our contractual relationships is critical to furthering the health and safety of Federal contractor employees and their ability to perform efficiently and effectively for our country. We encourage you to share this reminder broadly with our appreciation for continued attention to this life-saving work.

We look forward to our next interagency Office Hours on Friday, November 12, from 1:30 to 2 PM EST.

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

--

To unsubscribe from this group and stop receiving emails from it, send an email to CAAC_RelatedDistributionList+unsubscribe@gsa.gov.

From: [Crank, Antanese \(HQ-IM030\)](#)
To: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Subject: FW: FAR Council Guidance on EO 14042
Date: Tuesday, October 12, 2021 11:00:44 AM

See below. Initially, I did not understand what Bev meant by “non grant cooperative agreements”. After discussing with OMB, her language seems to be in line with cooperative agreements that are improperly classified and functioning more as a contract and not a grant.

Antanese Crank

Antanese Crank
Chief, Grants Policy & Compliance Branch
NASA Headquarters
Office of the Chief Financial Officer | Policy Division

Desk: 202.358.4683
Office: 8N32

From: McAlister, Beverly D (HQ-IM050) <beverly.d.mcalister@nasa.gov>
Sent: Friday, October 1, 2021 3:03 PM
To: Shinn, Stephen A. (HQ-IA000) <stephen.a.shinn@nasa.gov>; Alfred, Terrance (HQ-IM010) <terrance.alfred-1@nasa.gov>; Kroskey, Susan P. (KSC-GG000) <susan.p.kroskey@nasa.gov>; Comstock, Doug (HQ-IA000) <doug.comstock@nasa.gov>; Kerwin, Mary D. (HQ-IA000) <mary.d.kerwin@nasa.gov>
Cc: Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Smith, Curtis M. (HQ-LP011) <curtis.m.smith@nasa.gov>; Ramos, Frank M. (AFRC-800) <frank.m.ramos@nasa.gov>; Crank, Antanese (HQ-IM030) <antanese.n.crank@nasa.gov>; Williams, Cassandra (NSSC-XD041) <cassandra.williams-1@nasa.gov>; Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>; HOLLOWELL, THERESA L. (HQ-IM051) <theresa.l.hollowell@nasa.gov>; Wunderlick, Linda K (GSFC-150.0)[ASRC FEDERAL SYSTEM SOLUTIONS] <linda.k.wunderlick@nasa.gov>
Subject: FAR Council Guidance on EO 14042

Happy New Year OP and CFO Team,
Sharing for your awareness the message below from the CFO Council meeting I attended yesterday. During the meeting OMB clearly communicated that the Procurement community will be made aware of EO 14042 and the urgency placed on getting the new guidance placed in the FAR.

Below link is initial direction to Agencies related to COVID Safety Protocols for Federal Contractors in all Agency contracts.

Grants and some Non grant Cooperative Agreements are excluded from this requirement however, exceptions should follow the EO guidance.

Beverly

Beverly D. McAlister
Associate Chief Financial Officer
300 E Street, SW
Washington, DC 20546-001
beverly.d.mcalister@nasa.gov

Office: (202) 358-2829
Cell: (b) (6)

From: CFOC Advisory <CFOC-ADVISORY@LISTSERV.GSA.GOV> **On Behalf Of** CFO Council Support
Sent: Friday, October 1, 2021 1:11 PM
To: CFOC-ADVISORY@LISTSERV.GSA.GOV
Subject: [EXTERNAL] [CFOC-ADVISORY] FAR Council Guidance on EO 14042

Good Morning CFO Community,

Thank you for attending yesterday's Special Ad Hoc Meeting on Executive Order 14042. Yesterday afternoon, the FAR Council released initial direction to support agencies in their issuance of deviations to incorporate a clause into their solicitations and contracts that implements guidance issued by the Safer Federal Workforce Task Force pursuant to Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.

See message below that was sent to the CAOC last night:

This afternoon, the FAR Council released initial direction to support agencies in their issuance of deviations to incorporate a clause into their solicitations and contracts that implements guidance issued by the Safer Federal Workforce Task Force pursuant to Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.
Here is a direct link to the document on OFPP's homepage: <https://www.whitehouse.gov/wp-content/uploads/2021/09/FAR-Council-Guidance-on-Agency-Issuance-of-Deviations-to-Implement-EO-14042.pdf>

As explained in the FAR Council's memo:

- Agencies should promptly review the FAR Council guidance and clause and act expeditiously to issue their deviations, so that their contracting officers may begin to apply the clause on or before October 15.
- Agencies should also review, and update as necessary, any relevant guidance previously provided to contractors to ensure consistency with the deviated FAR text.
- If a civilian agency intends to use clause text different than the deviated clause text provided by the FAR Council, the agency must consult with the CAAC Chair.
- Civilian agencies should furnish a copy of their approved class deviations (including direction to the workforce, prescription for use of clause, and clause text) to the FAR

Secretariat by emailing the deviation to GSARegSec@gsa.gov by October 15th.

During Friday's office hours (October 1 from 1:30-2:30), we will take questions on the FAR Council's guidance and the Task Force will take additional questions on their guidance for contractors.

We know this is an extraordinarily busy time of year and greatly appreciate your ongoing partnership and commitment to acquisition excellence.

Your OFPP colleagues and the members of the FAR Council wish each of you and your teams a happy fiscal new year!

Thank you for your attention.

Best regards,

Your CFOC Support Team

To unsubscribe from the CFOC-ADVISORY list, create a new email message, addressed to CFOC-ADVISORY-unsubscribe-request@listserv.gsa.gov. The message content does not matter and the sender's email address will be removed from the list.

From: [William Clark - M1V1C](#)
To: [Blum, Mathew C. EOP/OMB](#)
Cc: [Tenaglia, John M SES OSD OUSD A-S \(USA\)](#); [Linda W. Neilson \(linda.w.neilson.civ@mail.mil\)](#); [Calisti - AF \(scott.r.calisti.civ@mail.mil\)](#); [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#); [Jeffrey Koses; janet.fry@gsa.gov](#); [Jackson, Karla Smith \(HQ-LP010\)](#); [Wise, Julia B. \(HQ-LP011\)-NASA](#); [Diane Thompson \(diane.thompson@nasa.gov\)](#); [zenaida.delgado@gsa.gov](#); [Field, Lesley A. EOP/OMB](#); [Manolache, Iulia Z. EOP/OMB](#); [Wise, Julia B. \(HQ-LP011\)](#); [Thompson, Diane \(HQ-LP011\)](#)
Subject: [EXTERNAL] Re: Revised Draft Guidance on EO 14042
Date: Thursday, September 16, 2021 2:44:18 PM
Attachments: (b) (5)

Mathew:

(b) (5)

We look forward to further discussion on this matter.

Thanks,

Bill

On Wed, Sep 15, 2021 at 5:44 PM Blum, Mathew C. EOP/OMB


(b) (6)

wrote:

Dear FAR Council Colleagues –

(b) (5)

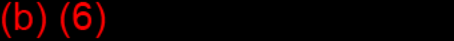
(b) (5)



Many thanks.

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)



From: [Michaud, Vincent J. \(HQ-QA000\)](#)
To: [Seaton, Jeffrey M. \(LARC-JA000\)](#); [Roets, William \(HQ-LP010\)](#); [Saunders, Melanie \(HQ-AA000\)](#); [NORTHON, KAREN M. \(HQ-NA020\)](#); [Datta, Jane \(HQ-LE000\)](#); [Sutton, Sharon \(HQ-LE052\)](#); [Polk, James D. \(HQ-QA000\)](#); [Feldstein, Karen C. \(HQ-TA000\)](#); [Back, Kyle W. \(HQ-IA000\)](#); [Feinberg, Shari R. \(HQ-MB000\)](#); [Grove, Jennifer \(HQ-VA030\)](#); [Thompson-king, Sumara M. \(HQ-MA000\)](#); [Swails, Casey L. \(HQ-LE030\)](#); [Miller, Sonia S. \(KSC-SIC20\)](#); [Detka, Eileen \(HQ-IM030\)](#); [Shih, Steve \(HQ-YA000\)](#); [Barrett, David G. \(HQ-MB000\)](#); [Willing, Ryan M. \(HQ-IM030\)](#); [Mcmurry, Tom \(HQ-MA000\)](#); [McKay, Meredith \(HQ-TA000\)](#); [Jackson, Karla Smith \(HQ-LP010\)](#)
Subject: RE: [EXTERNAL] [CIO-DCIO] Vaccine reporting JSON and Instructions
Date: Friday, September 17, 2021 8:36:15 PM
Attachments: [image001.png](#)

Jeff,

It is great they are thinking early about automating the process.

That being said, we have a lot of balls in the air at this moment. I would request we delay deciding on using this submission method for a week. In the meantime your folks could look at the data file we export to EDL on the attestation to see how that would work as a source. I know it will be incomplete for all categories at this time.

Also, in the short term we'll probably need to do a manual report so we can explain the data we have and don't have.

Just my first thoughts.

Vince

From: Seaton, Jeffrey M. (LARC-JA000) <jeff.seaton@nasa.gov>
Sent: Friday, September 17, 2021 6:26 PM
To: Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Saunders, Melanie (HQ-AA000) <melanie.saunders-1@nasa.gov>; NORTHON, KAREN M. (HQ-NA020) <karen.northon@nasa.gov>; Datta, Jane (HQ-LE000) <jane.datta-1@nasa.gov>; Sutton, Sharon (HQ-LE052) <sharon.sutton@nasa.gov>; Polk, James D. (HQ-QA000) <james.d.polk@nasa.gov>; Michaud, Vincent J. (HQ-QA000) <vincent.michaud-1@nasa.gov>; Feldstein, Karen C. (HQ-TA000) <karen.c.feldstein@nasa.gov>; Back, Kyle W. (HQ-IA000) <kyle.w.back@nasa.gov>; Feinberg, Shari R. (HQ-MB000) <shari.r.feinberg@nasa.gov>; Grove, Jennifer (HQ-VA030) <jennifer.grove@nasa.gov>; Thompson-king, Sumara M. (HQ-MA000) <sumara.m.thompson-king@nasa.gov>; Swails, Casey L. (HQ-LE030) <casey.l.swails@nasa.gov>; Miller, Sonia S. (KSC-SIC20) <sonia.miller@nasa.gov>; Detka, Eileen (HQ-IM030) <eileen.detka-1@nasa.gov>; Shih, Steve (HQ-YA000) <stephen.t.shih@nasa.gov>; Barrett, David G. (HQ-MB000) <david.g.barrett@nasa.gov>; Willing, Ryan M. (HQ-IM030) <ryan.m.willing@nasa.gov>; Mcmurry, Tom (HQ-MA000) <tom.mcmurry@nasa.gov>; McKay, Meredith (HQ-TA000) <meredith.mckay@nasa.gov>; Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>
Subject: FW: [EXTERNAL] [CIO-DCIO] Vaccine reporting JSON and Instructions

All,

Just received the email below and attachments dealing with the requirements for agencies to submit reporting data – looks like this was discussed at the PMC this afternoon. The JSON file (attachment) is what our technical team will use to ensure we export the data in the appropriate format to submit. The Word document outlines submission instructions.

I did NOT volunteer us to be one of the agencies to test this out, but if we decide we want to move up the front row of the class, I can raise our collective hand.

Jeff

Jeff Seaton
Chief Information Officer
NASA

From: CIOs and Deputy CIOs <CIO-DCIO@LISTSERV.GSA.GOV> on behalf of Ariel Crawford - M1Y-D <ciocouncil.support@GSA.GOV>

Reply-To: Ariel Crawford - M1Y-D <ciocouncil.support@GSA.GOV>

Date: Friday, September 17, 2021 at 6:18 PM

To: "CIO-DCIO@LISTSERV.GSA.GOV" <CIO-DCIO@LISTSERV.GSA.GOV>

Subject: [EXTERNAL] [CIO-DCIO] Vaccine reporting JSON and Instructions

CIO's -

Thank you for joining the call yesterday and we appreciate the agencies that are participated in testing the JSON. The OMBMAX team will work on the API next.

Please find the JSON sample attached.

This information below went out to the PMC this afternoon. Please note highlighted item below to provide information for up to 5 staff/technical leads that will be submitting information.

As mentioned on today's PMC call, we are sharing detailed information to support ongoing agency efforts to collect and report data from employees, including the collection and maintenance of documentation of proof of vaccination. We are also requesting that all CFO Act agencies begin to report aggregate information on a weekly basis to OMB using the MAX VNEX tool **starting Wednesday, September 22nd**.

Reporting Tool and Instructions:

1. Link to MAX Community page with information on timelines, reporting requirements and a portal to the VNEX reporting system: <https://community.max.gov/x/r6m2hQ>
2. Detailed instructions for file uploads, including sample file examples are included on the MAX Community site and attached to this email.

3. This is a permissions based site, and members of the PMC Working Group have already been granted full permissions to upload agency reports.
4. Agencies may request the addition of up to five (5) staff members/technical leads to their agency user list. Please submit your request to vaccines@omb.eop.gov
5. All users must have an active MAX account. See self-registration instructions below.

Reporting Timelines and Expectations:

1. CFO Act agencies are required to report to OMB on a weekly basis, starting on Wednesday, September 22nd
2. Weekly reports are due by **3pm on Wednesdays**.
3. We expect weekly reporting requirements to go through at least early December.
4. Information is collected from departments, and departments should disaggregate submitted data by bureau/component agency.

Resources:

1. Questions about the data request should be directed to: vaccines@omb.eop.gov
2. Technical issues or questions, email maxsupport@max.gov or call 202.395.6860
3. MAX Self Registration Steps:
 - a. In your browser's URL, type <https://max.gov>.
 - b. In the top right corner, click the **Register Now** button.
 - c. In the registration window either select "**Register with PIV/CAC card**" or "**Register with Email Address**"
 - d. Complete the form on the screen, click **Continue**.
 - e. Read the MAX User Agreement at the bottom, click **I agree** and then click **Register**.

You received this email because you are subscribed to the CIOs and Deputy CIOs (CIO-DCIO) mailing list. If you would like to unsubscribe from this list, simply send an email to CIO-DCIO-UNSUBSCRIBE-REQUEST@LISTSERV.GSA.GOV. No subject or message is necessary in the email.

For any questions or problems, contact CIO Council Support at feedback@cio.gov.

From: [O'Rourke, Andrew . \(HQ-LP011\)](#)
To: [Thompson, Diane \(HQ-LP011\)](#)
Subject: RE: [EXTERNAL] 2021-021(p), Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - First draft of case documents
Date: Monday, October 18, 2021 8:15:16 AM

I'm a little confused. Can you give me a call and we can talk about this?

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Monday, October 18, 2021 9:08 AM
To: O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>
Subject: FW: [EXTERNAL] 2021-021(p), Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - First draft of case documents

Hi Andy:

I know this is not really your area, but I appreciate your input. Question – now that there is COVID reporting required in FPDS (see paragraph below), do you think that we should add the requirement into the case?

Sent to OMB/WH for Consultation

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Sent: Thursday, October 14, 2021 4:54 PM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>
Subject: [EXTERNAL] 2021-021(p), Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - First draft of case documents

Hello Carrie and Diane. Hope you are doing well. Thank God I am.

(b) (5)
[Redacted]
[Redacted]
[Redacted]

To expedite this case, I recommend going over the documents at a meeting, the sooner the better. Feel free to send any edits, comments or questions ahead of time.

What is your availability for next week? Mine is as follows:

Monday 10/18 - 12-5 pm
Thursday 10/21 - any time

Diane: Will Andy participate along with you in the Ad Hoc team? If so, please share this email with him and let me know to add him to the invite.

Looking forward to our discussion next week. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#); [Becker, James L. \(GSFC-LP010\)](#)
Cc: [Wise, Julia B. \(HQ-LP011\)](#)
Bcc: [Thompson, Diane \(HQ-LP011\)](#)
Subject: FW: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment
Date: Thursday, November 18, 2021 8:57:50 AM

Hi Geoff and Jim:

The CAAC chair sent the following question regarding the agencies' class deviations for EO 14042. In my opinion, the example used in his question regarding rental and leasing constitutes procurement of a "product", not a service. If his example of leasing a car was substituted with leasing a generator on a job site for 30 days, the answer would be even more obvious.

Let me know what you think relative to how NASA implemented PCD 21-03. I'd be happy to discuss.

Thanks,
Diane

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Wednesday, November 17, 2021 4:54 PM
To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Janet Fry - M1V1CA <janet.fry@gsa.gov>
Subject: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Hi Linda and Diane,

(b) (5) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

We appreciate your thoughts on the matter, and will be happy to discuss the matter on the next Monday call if needed.

Regards,

--

Bill Clark, Director
General Services Administration

Office of Government-wide Acquisition Policy

Office of Acquisition Policy

Office of Government-wide Policy

202-219-1813

Virtual Mtg (b) (6)

From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Becker, James L. \(GSFC-LP010\)](#); [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Cc: [Wise, Julia B. \(HQ-LP011\)](#)
Subject: RE: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment
Date: Thursday, November 18, 2021 10:53:21 AM

Thanks Jim!

From: Becker, James L. (GSFC-LP010) <james.l.becker@nasa.gov>
Sent: Thursday, November 18, 2021 11:40 AM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

I stand corrected...forgot about stuff like this...

NAICS Codes that fall under 532 - Rental and Leasing Services

Codes	Titles	Total Marketable US Businesses
532	Rental and Leasing Services	117,173
5321	Automotive Equipment Rental and Leasing	36,079
532111	Passenger Car Rental	14,905
532112	Passenger Car Leasing	828
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	20,346
5322	Consumer Goods Rental	32,853
532210	Consumer Electronics and Appliances Rental	5,809
532281	Formal Wear and Costume Rental	1,919
532282	Video Tape and Disc Rental	4,354
532283	Home Health Equipment Rental	2,398
532284	Recreational Goods Rental	1,808
532289	All Other Consumer Goods Rental	16,565
5323	General Rental Centers	784
532310	General Rental Centers	784
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing	47,457
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	1,120
532412	Construction, Mining, and Forestry Machinery and Equipment	5,565

	Rental and Leasing	
532420	Office Machinery and Equipment Rental and Leasing	583
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	40,189

Jim

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Thursday, November 18, 2021 9:58 AM
To: Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>; Becker, James L. (GSFC-LP010) <james.l.becker@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: FW: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Hi Geoff and Jim:

The CAAC chair sent the following question regarding the agencies' class deviations for EO 14042. In my opinion, the example used in his question regarding rental and leasing constitutes procurement of a "product", not a service. If his example of leasing a car was substituted with leasing a generator on a job site for 30 days, the answer would be even more obvious.

Let me know what you think relative to how NASA implemented PCD 21-03. I'd be happy to discuss.
 Thanks,
 Diane

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Wednesday, November 17, 2021 4:54 PM
To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Janet Fry - M1V1CA <janet.fry@gsa.gov>
Subject: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Hi Linda and Diane,

(b) (5)
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

(b) (5)

We appreciate your thoughts on the matter, and will be happy to discuss the matter on the next Monday call if needed.

Regards,

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

From: [William Clark - M1V1C](#)
To: [Blum, Mathew C. EOP/OMB](#)
Cc: [Linda W. Neilson \(linda.w.neilson.civ@mail.mil\)](#); [Moore, Carrie M CTV OSD OUSD ATL \(US\)](#); [Janet Fry - M1V1CA](#); [ROMNEY, J Lisa \(Lisa\) SES OSD OUSD A-S \(USA\)](#); [Wise, Julia B. \(HQ-LP011\)-NASA](#); [Diane Thompson \(diane.thompson@nasa.gov\)](#); [Van Houten, Ann](#); [Jennifer.Johnson@dot.gov](#); [Pica, Karen A. EOP/OMB](#); [Glock, Porter O. EOP/OMB](#); [Manolache, Julia Z. EOP/OMB](#); [McClung, John L. EOP/OMB](#); [Nicholas West - M1V1A](#); [Wise, Julia B. \(HQ-LP011\)](#); [Thompson, Diane \(HQ-LP011\)](#)
Subject: [EXTERNAL] Re: Updated Draft Instruction on Tracking Implementation of EO 14042
Date: Tuesday, October 19, 2021 1:50:37 PM

Mathew:

A few clarifying questions:

(b) (5) [REDACTED]

[REDACTED]

[REDACTED]

Thanks,

Bill

On Tue, Oct 19, 2021 at 12:42 PM Blum, Mathew C. EOP/OMB

Email Already Processed

From: [Mcclain, Susan E. \(LARC-B1\)](#)
To: [Detko, Jason T. \(MSFC-LP010\)](#); [Jackson, Karla Smith \(HQ-LP010\)](#)
Cc: [Cannella, Timothy P. \(LARC-B1\)](#)
Subject: FW: [EXTERNAL] Fwd: FDRF - Implementation of EO 14042 and FAR 52.223-99
Date: Friday, November 19, 2021 11:50:53 AM

The email from GSA – it appears that GSA is working on an enterprise approach and are awaiting a decision from their SPO. I've copied the important bit from the below email – we are working on the mask issues. GSA has asked that I not contact the contractor – they want to find an enterprise solution and are concerned that we might try to push for a LaRC solution that doesn't fit in with their enterprise approach.

(b) (5)







I'll send more information as I receive it.

From: Kelemen, Loretta A. (LARC-D4) <loretta.a.kelemen@nasa.gov>
Sent: Friday, November 19, 2021 12:43 PM
To: Mcclain, Susan E. (LARC-B1) <susan.e.mcclain@nasa.gov>
Subject: FW: [EXTERNAL] Fwd: FDRF - Implementation of EO 14042 and FAR 52.223-99

From: Joanna Rosato - 3P <joanna.rosato@gsa.gov>
Sent: Thursday, November 18, 2021 10:30 AM
To: Kelemen, Loretta A. (LARC-D4) <loretta.a.kelemen@nasa.gov>
Cc: Edward Myers <ed.myers@gsa.gov>
Subject: [EXTERNAL] Fwd: FDRF - Implementation of EO 14042 and FAR 52.223-99

Hello Loretta:

I wanted you to see what Ed shared with Erik and Will regarding our conversation on the EO and

vaccines for the FDRF project. I believe Mike Ryer and Bill Faustman have shared this with Brian and Floyd as well.

Please let us know if you have any questions.

Joanna

	U.S. General Services Administration
	Joanna Rosato, PMP
	Regional Commissioner, Mid-Atlantic Region
	Public Buildings Service
	Work: 215-446-4640 Mobile: (b) (6)
	joanna.rosato@gsa.gov

----- Forwarded message -----

From: **Ed Myers - 3PX** <ed.myers@gsa.gov>

Date: Thu, Nov 18, 2021 at 9:23 AM

Subject: FDRF - Implementation of EO 14042 and FAR 52.223-99

To: Weiser, Erik S. (LARC-D4) <erik.s.weiser@nasa.gov>, Joanna Rosato <joanna.rosato@gsa.gov>, Lilitiana DelBonifro <lilitiana.delbonifro@gsa.gov>, Edward Myers <ed.myers@gsa.gov>, Michael Ryer - 3PCMB <mike.ryer@gsa.gov>

Good morning,

Thanks again for the meeting yesterday where we spoke in general about the MOU between our agencies and the execution of E.O. 14042, specifically as it relates to the FDRF project at the Langley Center. Following are GSA's guidelines regarding the Executive Order and what we are specifically implementing for the FDRF project. Please note that implementation may change rapidly as requirements are further defined or revised.

We plan on sending a similar message to the FDRF team to coordinate the operational requirements at Langley as referenced below.

GSA Guidance: GSA Implementation of E.O. 14042 requires GSA Contracting Officers to add the clause FAR 52.223-99 for existing contracts as a bilateral contract modification. The modification requires:

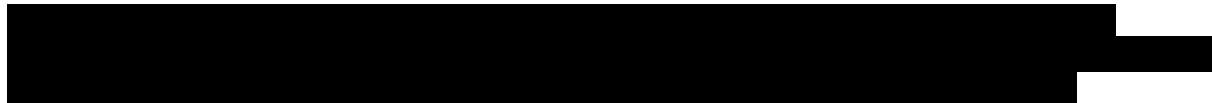
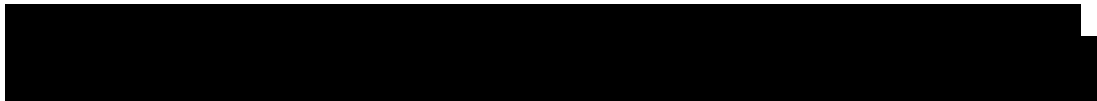
- Vaccination of covered contractor employees except in limited circumstances where an employee

- is legally entitled to an accommodation;
- Requirements related to masking and physical distancing while in covered contractor workplaces; and
- Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.

Additional requirements are provided at the follow resources available online:

- [GSA Class Deviation From the Federal Acquisition Regulation \(FAR\) Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors \[PDF - 370 KB\]](#)
- [GSA Implementation of E.O. 14042 public website](#)

(b) (5)



U.S. General Services Administration

Ed Myers

Director, Capital Project Delivery

Mid-Atlantic Region

Public Buildings Service

215-704-2163

From: [Zenaida Delgado - M1V1CA](#)
To: [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#); [O'Rourke, Andrew . \(HQ-LP011\)](#); [Thompson, Diane \(HQ-LP013\)](#); [Thompson, Diane \(HQ-LP011\)](#)
Cc: [Janet Fry - M1V1AC](#)
Subject: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Monday, September 20, 2021 10:43:07 AM
Attachments: [2021-02X TAB A FAR Text COVID Safety Protocols - up to FAC 07 09-20-2021.docx](#)

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

From: [Janet Fry - M1V1CA](#)
To: [William Clark - M1V1C](#)
Cc: [Blum, Mathew C. EOP/OMB](#); [Tenaglia, John M SES OSD OUSD A-S \(USA\)](#); [Linda W. Neilson \(linda.w.neilson.civ@mail.mil\)](#); [Calisti - AF \(scott.r.calisti.civ@mail.mil\)](#); [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#); [Jeffrey Koses](#); [Jackson, Karla Smith \(HO-LP010\)](#); [Wise, Julia B. \(HO-LP011\)-NASA](#); [Diane Thompson \(diane.thompson@nasa.gov\)](#); [zenaida.delgado@gsa.gov](#); [Field, Lesley A. EOP/OMB](#); [Manolache, Iulia Z. EOP/OMB](#); [Wise, Julia B. \(HO-LP011\)](#); [Thompson, Diane \(HO-LP011\)](#)
Subject: [EXTERNAL] Re: REVISED Task Force Draft Guidance on the Implementation of EO 14042
Date: Monday, September 20, 2021 3:48:56 PM
Attachments: [September 19 draft Safer Federal Workforce Task Force -GSA comments.docx](#)

Mathew,

Please see the attached document for the edits.

Regards,
Janet



U.S. General Services Administration

Janet M. Fry
Director
Federal Acquisition Policy Division
Office of Government-wide Policy
Office 703-774-5274
www.gsa.gov

On Mon, Sep 20, 2021 at 4:10 PM William Clark - M1V1C <william.clark@gsa.gov> wrote:
Mathew:

Attached is the COVID guidance with GSA recommendations in tracked changes and comments. We previewed our comments on the call this afternoon. If you have any questions, please let us know.

Thanks!


On Sun, Sep 19, 2021 at 1:48 PM Blum, Mathew C. EOP/OMB

(b) (6) wrote:

Dear FAR Council Colleagues –

(b) (5)

(b) (5)




Many thanks in advance.

Mathew

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)





GSA Office of Governmentwide Policy

Class Deviation CD-2021-13
September 30, 2021

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM: JEFFREY A. KOSES DocuSigned by:
Jeffrey A. Koses
21BD80B9E8AC4A0...
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

SUBJECT: FAR Class Deviation - Implementation of Executive Order 14042,
Ensuring Adequate COVID Safety Protocols for Federal Contractors

A. Purpose.

This memorandum approves a class deviation from the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, signed September 9, 2021.

This memorandum also provides instructions for the GSA acquisition workforce on when to include a new clause in GSA solicitations and contracts and “contract-like instruments” (e.g., licenses, outleases, and tenders).

The instructions include GSA-specific implementation timelines for solicitations, new contracts, and existing contracts.

B. Background.

In order to ensure the health and safety of the federal workforce and contractor community, the President signed [E.O. 14042](#). The E.O. promotes economy and efficiency in Federal procurement by ensuring that contractors and subcontractors that contract with the Federal Government provide COVID-19 safeguards. The E.O. directs the Safer Federal Workforce Taskforce to issue guidance to provide implementation details and the Federal Acquisition Regulatory (FAR) Council to establish a new clause to be included in solicitations and contracts and contract-like instruments.

The Safer Federal Workforce Task Force issued guidance on September 24, 2021 at [saferfederalworkforce.gov](https://www.saferfederalworkforce.gov) which requires:

- Vaccination of covered contractor employees,¹ except in limited circumstances where an employee is legally entitled to an accommodation;²
- Requirements related to masking and physical distancing while in covered contractor³ workplaces; and
- Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.

On September 30, 2021, the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2021-03 regarding implementation of E.O. 14042, which serves as consultation with the CAAC Chair to authorize agencies to issue their own class deviations (see Attachment A). This class deviation sets forth GSA's implementation of the E.O. and CAAC Letter.

C. Applicability.

1. Subject to section D of this deviation, the clause is required in the following:
 - Contracts or contract-like instruments for services, construction, or a leasehold interest in real property exceeding the simplified acquisition threshold (SAT) or simplified lease acquisition threshold (SLAT);
 - Contracts or contract-like instruments for services covered by the Service Contract Act, 41 U.S.C. § 6701, *et seq.*; exceeding the SAT/SLAT
 - Contracts or contract-like instruments for concessions, including any concessions contract excluded by Department of Labor regulations at 29 CFR § 4.133(b) exceeding the SAT/SLAT; or,
 - Contracts or contract-like instruments entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public, exceeding the SAT/SLAT.
2. GSA is strongly encouraging the clause in the following:⁴
 - Contracts or subcontracts whose value is equal to or less than the SAT/SLAT; or,
 - Contracts or subcontracts solely for the manufacturing of products, unless exempted by FAS or PBS specific guidance. See Attachments C and D.
3. The new clause is not applicable to:
 - Micro-Purchases;
 - Site Acquisition;

¹ Covered contractor employee means any full-time or part-time employee of a covered contractor working on or in connection with a covered contract or working at a covered contractor workplace. This includes employees of covered contractors who are not themselves working on or in connection with a covered contract.

² Note that contractor employees working from home must be vaccinated but do not have to follow the CDC masking and social distancing protocols, because an employee's personal residence is not a covered contractor workplace. See Safer Federal Workforce Task Force FAQs for Federal Contractors.

³ Covered contractor means a prime contractor or subcontractor at any tier who is party to a covered contract.

⁴ While the E.O. does not require the clause in these circumstances, the Safer Federal Workforce Task Force guidance strongly encourages agencies to include it.

- Sales of surplus real and personal property;
- Solicitations and contracts if performance is outside the United States or its outlying areas (the exclusion is limited to employees who are performing work only outside the U.S. or its outlying areas); or
- Contracts and subcontracts with Indian Tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638) (the exclusion would not apply to a procurement contract or subcontract under the FAR to an Indian-owned or tribally-owned business entity).

D. Requirements.

1. Solicitations.

- a. ***New Solicitations.*** Contracting officers shall include the clause at FAR **52.223-99**, Ensuring Adequate COVID Safety Protocols for Federal Contractors in new applicable solicitations issued on or after **October 15, 2021**.
- b. ***Existing Solicitations.*** Contracting officers shall either amend the solicitation to include the clause at FAR 52.223-99 or incorporate it into the award of the apparent successful offeror for applicable solicitations that were issued prior to **October 15, 2021**, that have not closed, or awards that have not been made by **October 15, 2021**.
- c. New and existing solicitations for items described in section C.1. and C.2. of this deviation shall include the clause. Solicitations for items described in section C.3. of this deviation shall not include the clause.

2. Contracts.

- a. ***New Contracts.*** Contracting officers shall include the clause at FAR **52.223-99** in new applicable contracts, lease acquisitions, and “contract-like instruments” awarded on or after **October 15, 2021**.

New contracts for items described in section C.1. and C.2. of this deviation shall include the clause. New contracts for items described in section C.3. of this deviation shall not include the clause.

- b. ***Existing Contracts.*** Contracting officers shall send a cover letter⁵ and modification request to add the clause at **FAR 52.223-99** for existing contracts

⁵ The cover letter, among other things, informs the contractor that the modification is strongly encouraged for contracts described in section C.1. and C.2. of this deviation. Also, it informs the contractor that the modification is mandatory before GSA will renew, extend the period of performance, or exercise an option for contracts described in section C.1. of this deviation.

including indefinite delivery, indefinite quantity (IDIQ) contracts,⁶ and contract-like instruments, described in section C.1. and C.2. of this deviation.

- The modification must be bilateral.
- The language in Attachment B shall be used in the cover letter.
- Contracting officers are ultimately responsible for sending the cover letter and modification request to contractors; however, GSA will use a technology solution to automatically send the cover letter and modification request to the contractor for most GSA contracts. The FAS and PBS specific guidance in Attachments C and D identifies each GSA contracting program that will send the modification using a central mass modification process.⁷

Existing contracts for items described in section C.3. of this deviation shall not include the clause or cover letter.

Contracting officers shall complete as many modifications as possible before **November 14, 2021**. For IDIQs, contracting activities may take interim actions if a signed modification is not returned to GSA by **November 14, 2021**, such as:

- Temporarily hiding contractor information on GSA websites and/or e-tools
- Flagging contractors that have not accepted the modification

Contracting officers shall not exercise an option period or extend the period of performance for existing contracts for items described in section C.1. of this deviation unless the contract has been modified to include the new clause.

E. Authority.

This class deviation is issued under the authority of FAR 1.404 and General Services Administration Acquisition Manual (GSAM) 501.404.

This deviation is issued following consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) in accordance with FAR 1.404(a) and GSAM 501.404(a).

F. Effective Date.

This deviation is effective immediately and remains in effect until the FAR and GSAR are amended or until cancelled.

G. Cancellation.

SPE Memo SPE-2021-16 *Return to Facilities Contractor Guidance* is cancelled in its entirety by this class deviation.

⁶ For IDIQs, once the modification is accepted, it applies to all existing and future orders. Orders placed prior to an IDIQ contract modification can include the clause at the order level, if desired.

⁷ The Office of Administrative Services shall refer to PBS guidance for the automated modifications sent using EASi.

H. Resources.

The Acquisition Portal's [Public Health Emergencies topic page](#) will be updated with additional resources, including GSA FAQs, talking points, and links to all related policies. Questions can be directed to the points of contact listed on the [Acquisition Portal](#).

Attachments

- Attachment A - [CAAC Letter 2021-03](#)
- Attachment B - [Sample Cover Letter](#)
- Attachment C - [FAS Specific Guidance](#)
- Attachment D - [PBS Specific Guidance](#)



Color coding of this template is as follows:

BLACK - standard text

BLUE - text that must be filled in by acquisition team

[Date]

[Contractor's Name]

[Contractor's Street Address]

[Contractor's City, State and Zip Code]

Subject: Contract Modification - New Clause for Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - [Procurement Instrument Identifier/Lease Contract Number]

Dear [Contractor's POC name],

GSA appreciates the hard work and dedication of our contractors. The health and safety of GSA employees, contractors and their families is our top priority. In order to ensure the health and safety of the Federal workforce and contractor community, the President signed [Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors](#). The requirements in the Executive Order are being implemented via a FAR deviation. The clause in the FAR deviation will be incorporated into GSA contracts via a bilateral modification.

If you hold a GSA contract for services, construction, or a leasehold interest in property that exceeds the simplified acquisition threshold (SAT) or the simplified lease acquisition threshold (SLAT), GSA strongly encourages you to accept this contract modification at this time. The modification is **mandatory** before GSA will renew, extend the period of performance of your contract, or exercise an option.

Acceptance of the contract modification is also **mandatory** for all Federal Supply Schedule contractors.

If you hold a contract at or below the SAT/SLAT or a contract only for products, GSA strongly encourages you to accept the modification.

For IDIQ contracts, including all Federal Supply Schedule contracts, you must sign the modification by **November 14, 2021** to be eligible for new orders. GSA may take

interim actions if a signed modification is not returned to GSA by **November 14, 2021**, such as:

- Temporarily hiding contractor information on GSA websites and/or e-tools
- Flagging contractors that have not accepted the modification

Once an IDIQ contract is modified, the clause applies to the exercise of options on all existing orders and to all future orders.

Based on the urgency of this issue, please return your signed contract modification as soon as possible and no later than **November 14, 2021**.

For more information, please visit <https://gsa.gov/covid19>.

CD-2021-13 EO 14042 COVID Safety Protocols for Federal Contractors:
Attachment C - Guidance Specific to the Federal Acquisition Service

The following provides FAS-specific guidance for implementing GSA Class Deviation 2021-13:

Applicability

FAS will include the clause at **FAR 52.223-99** in all new applicable contracts and “contract-like instruments” awarded on or after October 15, 2021.

FAS will bilaterally modify all existing contracts and “contract-like instruments” awarded before October 15, 2021, to include the clause at FAR 52.223-99, as applicable. Additional clarifications and exceptions regarding applicability of FAS contract vehicles are provided below.

1. **Federal Supply Schedule (FSS):** FAS COs shall incorporate the clause at FAR 52.223-99, in all new and existing FSS contracts above the micro-purchase threshold, including contracts that are solely for products. The Safer Federal Workforce Task Force guidance strongly encourages agencies to incorporate the clause into contracts that are solely for products. It is not administratively feasible to distinguish FSS contracts that are solely for products from FSS contracts that are primarily for products but also include ancillary-type services (e.g., installation, maintenance, training, ancillary services acquired via the Order-Level Materials SIN, etc.). Requiring the clause in all FSS contracts will simplify compliance tracking, vendor communication, and customer messaging efforts.
2. **Blanket Purchase Agreements (BPAs):** For BPAs established under FAR Part 13 procedures, applicable orders and calls must include the clause at FAR 52.223-99 for all new and existing orders and calls unless the clause is already incorporated into the BPA. For applicable BPAs established under FAR Part 8 procedures, the objective is to get the clause into the Schedule contract as soon as possible. If necessary, FAS COs shall incorporate FAR 52.223-99 for all new and existing orders and calls awarded unless the clause is already part of the contract under which the BPA was established or incorporated into the BPA. FAS COs may, at their discretion, modify (by bilateral modification) existing BPAs to incorporate the clause at FAR 52.223-99.
3. **Government-wide Acquisition Contracts (GWACs), Multi Agency Contracts (MACs), and Agency-specific IDV/IDIQs:** FAS COs shall incorporate FAR 52.223-99, in all new and existing GWACs, MACs, and IDV/IDIQ contracts, including contracts that are solely for products, except as provided below. The

Safer Federal Workforce Task Force guidance strongly encourages agencies to incorporate the clause into contracts that are solely for products. Requiring the clause in all GWAC and MAC contracts will simplify compliance tracking, vendor communication, and customer messaging efforts.

- a. **GSA SmartPay® Program:** FAS COs shall incorporate FAR Clause 52.223-99 in the GSA SmartPay master contracts prior to exercise of option or extension. Agencies shall not issue new task orders until the master contract has been modified, unless FAR Clause 52.223-99 is incorporated at the order level. All charge card transactions under the program may continue unabated prior to modification of the master contracts.
 - b. **GSA City Pair Program:** FAS COs shall incorporate FAR Clause 52.223-99 for all GSA City Pair Program new contract awards or prior to extending existing GSA City Pair contracts. Transactions under the GSA City Pair Program (i.e., booking flights) may continue without modifying existing GSA City Pair contracts.
 - c. **Automotive IDV/IDIQs:** The FAS COs should strongly encourage Automotive contractors to accept bilateral modifications to incorporate FAR Clause 52.223-99. FAR Clause 52.223-99 is not required in Automotive contracts because they are contracts solely for products.
4. **Orders:** On or after November 14, 2021, prior to placing orders, COs shall review the contract to ensure that the clause at FAR 52.223-99 has been incorporated in the underlying contract. If the clause has not been incorporated in the contract, COs shall include the clause in the solicitation and resultant order, as applicable.

For existing orders against IDV/IDIQ contracts (e.g., FSS, GWACs, and MACs), COs shall review the contract's terms and conditions to determine whether the clause at FAR Clause 52.223-99 has been incorporated. If the underlying contract has not been modified to include the clause, or the underlying contract has expired, the order-level CO shall modify the order (by bilateral modification) to include FAR Clause 52.223-99 prior to exercise of the option period or extension.

5. **Assisted Acquisitions:**

- a. For acquisitions where GSA is not the funding agency, COs shall follow policies of the funding agency.

- b. For applicable open market contracts, FAS COs should include FAR Clause 52.223-99 in solicitations and new awards.
 - c. For orders against IDV/IDIQs, FAS CO shall follow the guidance in paragraph 4.
- 6. **Commercial Solutions Opening (CSO):** GSA's pilot program is not governed by the FAR and uses CSO procedures to competitively award innovative commercial items for products, technology and services. Nevertheless, CSOs are considered "contract-like instruments" and are subject to the requirements of the E.O. and GSA Class Deviation. FAS COs shall incorporate FAR Clause 52.223-99 in CSO contracts. See GSAM 571 for additional guidance about CSOs.
- 7. **Commercial Platforms:** The FAS CO should strongly encourage Commercial Platform contractors to accept bilateral modifications to incorporate FAR Clause 52.223-99. FAR Clause 52.223-99 is not required in the Commercial Platform contracts because they are no-cost service contracts whose value is less than the simplified acquisition threshold. Orders placed under Commercial Platform contracts are equal to or less than the micro-purchase threshold and are not required to incorporate FAR Clause 52.223-99.
- 8. **Tenders of Service:** FAS uses a tender procurement method for freight and household goods transportation and other services. FAS considers tenders of service a "contract-like instrument" under the E.O. FAS will therefore modify applicable terms and conditions documents (e.g., a GSA Standard Tender of Service) to include language equivalent to FAR 52.223-99. FAS will communicate to agencies that any bills of lading which exceed the simplified acquisition threshold should include language equivalent to FAR 52.223-99. Consistent with the Safer Federal Workforce Task Force, FAS will strongly encourage any bills of lading at or below the simplified acquisition threshold to include language equivalent to FAR 52.223-99, but it is not required

Implementation

- 1. **Modifications:**
 - a. Modification Begin Date: FAS will begin to bilaterally modify all existing contracts and "contract-like instruments" awarded before October 15, 2021 to include the clause at FAR 52.223-99, as applicable.
 - b. Automated Modifications: FAS will use an automated mass modification process for applicable contracts in FSS-19.

- c. Non-automated Modifications: FAS COs are responsible for modifying all applicable contracts that are not in FSS-19.

2. Internal Compliance Tracking Dashboard:

- a. FAS Office of Policy and Compliance (OPC) will develop an internal dashboard showing the compliance of FAS contracts modified to include FAR 52.223-99.
- b. FAS OPC will regularly notify FAS Heads of Contract Activity (HCAs) with modification status on FAS contracts.
- c. For non-automated modifications, FAS HCAs will provide regular status updates to FAS OPC.

3. Customer Support:

- a. FAS OPC will develop an external dashboard showing the compliance status of MAS/GWAC/MAC contracts to aid our customer agencies in identifying which contracts have been modified to include FAR 52.223-99. A link to this dashboard will be provided on customer facing tools such as GSAAAdvantage and eBay.
- b. For FSS contracts, COs can also review the current terms and conditions in [Contracts Online](#) to determine if the contractor is in compliance. For contracts that are manually modified (i.e., not a mass modification), the FAS CO shall provide modification status updates using a spreadsheet link to be provided by OPC.

4. Acquisition Workforce Training: Training will be provided to the FAS acquisition workforce by the FAS OPC and OGP's Office of Acquisition Policy.

5. Contractor Communications:

- a. All contractor communications will be posted at [GSA's COVID website](#).
- b. An advance Interact Notice will be posted to inform FAS contract vehicle holders on solicitation updates and modification requirements.

CD-2021-13 EO 14042 COVID Safety Protocols for Federal Contractors:
Attachment D - Guidance Specific to the Public Buildings Service

The following provides PBS-specific guidance for implementing GSA Class Deviation 2021-13:

1. Acquisitions.

A. Mass Modification Process

a. Mass Modification (i.e. “The Bot”) Points of Contact (POCs)

- Each Region must identify a POC and alternate on the Mass Modification POC List to work with OAM no later than October 5, 2021.
- The Mass Modification POCs are responsible for reviewing the PBS E.O. 14042 Dashboard and tracking regional progress.

b. Modifications to Existing Contracts and Contract-Like Instruments in EASi

- The following contract actions will be modified through the Bot process:
 - Stand-Alone Contracts
 - Blanket Purchase Agreements (BPAs)
 - BPA Calls
 - Indefinite-Delivery Indefinite-Quantity (IDIQ) Contracts
 - Task Orders and Delivery Orders
 - Purchase Orders

c. The Bot Process

- Bilateral modifications will be partially automated using a bot.
- The mass modifications for existing contracts and contract-like instruments will incorporate the clause at FAR 52.223-99.
- The Bot will create the cover letters and modifications to existing contracts and contract-like instruments in EASi and email them to the contractors. The CO for each contract will be copied on each email.
- Each contractor must sign the modification and return it to the CO. After the contractor returns the signed modification, the CO must sign and finalize the modification in EASi (including preparing an FPDS report) and return a copy of the signed modification to the contractor.
- It is anticipated that the Bot process will commence on or about October 8, 2021 and will be completed by October 15, 2021.

B. Contracts and Contract-Like Instruments outside of EASi

The Bot process will only work for contracts and contract-like instruments that are in EASi. For those actions that are outside of the EASi system, the CO must follow normal procedures for bilaterally modifying the action to include the clause at FAR 52.223-99. The CO shall send the cover letter provided in Attachment B of the class deviation along with the modification request.

C. Existing Solicitations

- Existing solicitations must be amended to include the clause at FAR 52.223-99.

- Existing solicitations include solicitations for stand-alone contracts, BPAs, BPA calls, IDIQ contracts, Delivery Orders, Task Orders, and Purchase Orders.
- ***NOTE:*** For orders and GSA Schedule BPAs, if it becomes known by the Contracting Officer that the base IDIQ has already been modified to include the clause at FAR 52.223-99, then the solicitation does not need to be modified. To see if the base IDIQ has been modified:
 - For FSS contracts, review the contract's current terms and conditions in [Contracts Online](#)
 - For PBS IDIQs, review the PBS E.O. 14042 Dashboard or contact the IDV CO
 - For all other IDIQs, contact the IDIQ CO or review the program website, if available.
- If offers have already been received by the Government, in lieu of amending the solicitation, the CO may incorporate the clause at FAR 52.223-99 into the contract/order of the apparent successful offeror, which must be signed bilaterally.

D. New Solicitations (as of October 15, 2021).

- The CO must include the clause at FAR 52.223-99 in the solicitation and resultant award.
- Updated PBS Construction Contract Templates are available in EASi and on [InSite](#).

E. Solicitations for orders under IDIQs.

- *Until the base IDIQ has been modified* to include the clause at FAR 52.223-99 the CO must also include this clause in the solicitation and resultant orders.
- To see if the base IDIQ has been modified:
 - For FSS contracts, review the contract's current terms and conditions in [Contracts Online](#).
 - For PBS IDIQs, review the PBS E.O. 14042 Dashboard or contact the IDV CO.
 - For all other IDIQs, contact the IDIQ CO or review the program website, if available.

2. Leases.

A. Mass Modification Process - Bilateral Lease Amendments to Existing PBS Leases (Issuance of Lease Amendments to Lessors for signature)

- PBS Office of Leasing will issue bilateral lease amendments to Lessors for signature.
- All existing leases, regardless of dollar value, will be modified through this process.
- Bilateral amendments will be generated and sent using automation (e.g., Docusign, Google script, Macro, etc).
- The mass modifications for existing leases will incorporate the clause at FAR 52.223-99.

- Each Lessor signs the modification and returns it to the Administrative Lease Contracting Officer (ALCO). After the Lessor returns the signed modification, the ALCO will countersign and return the fully signed modification to the Lessor.
- ALCOs will be responsible for executing the bilateral lease amendments and tracking progress/status.
- The PBS Office of Leasing will issue lease amendments to lessors for signature no later than October 15, 2021.

B. Existing Request for Lease Proposals (RLPs)

- For leases awarded on or after October 15, 2021:
 - Existing solicitations must be amended to include the clause at FAR 52.223-99, if Final Proposals Revisions (FPR) have not been received prior to October 15, 2021.
- If FPR has been received, in lieu of reopening discussions, the LCO may incorporate the clause at FAR 52.223-99 into the contract of the apparent successful offeror, which must be signed bilaterally.

C. New RLPs (issued on or after October 15, 2021)

- The LCO must include the clause at FAR 52.223-99 in the RLP and resultant lease contract by using updated General Clauses (GSA Forms 3517A or 3517B).
- Prior to October 15, 2021, Office of Leasing will update the General Clauses (GSA Forms 3517A and 3517B) to incorporate the clause at FAR 52.223-99. LCOs must use the updated General Clauses in new RLP packages. Updated GSA Forms 3517A and 3517B will be available on the Office of Leasing Google site and in the G-REX Templates Management Library.

3. PBS Training.

A. Implementation of E.O. 14042 and Class Deviation 2021-01 Training

Training will be provided to the PBS acquisition workforce regarding PBS-specific implementation and guidance regarding PBS acquisition programs.

B. Mass Modification Informational Sessions

The Office of Acquisition Management and the Office of Leasing will host mass modification information sessions for COs, ALCOs, and Mass Modification POCs on a regular basis regarding the mass modification process, the PBS E.O. 14042 Dashboard and tracking regional progress.

From: [Wise, Julia B. \(HQ-LP011\)](#)
To: [Kauffman, Victoria \(HQ-MD000\)](#); [Barber, Scott \(HQ-MD000\)](#)
Cc: [Jackson, Karla Smith \(HQ-LP010\)](#); [Roets, William \(HQ-LP010\)](#)
Subject: FW: [EXTERNAL] FYA: Copy of GSA FAR Class Deviation to implement COVID safety protocols for EO 14042
Date: Thursday, October 21, 2021 11:25:08 AM
Attachments: [GSA Class Deviation CD-2021-13.pdf](#)

GSA's deviation. They do a strong encouragement of accepting the modification for products.

Julia Wise| Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters
W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Friday, October 1, 2021 11:43 AM
To: &CAAC_RelatedDistributionList <CAAC_RelatedDistributionList@gsa.gov>
Subject: [EXTERNAL] FYA: Copy of GSA FAR Class Deviation to implement COVID safety protocols for EO 14042

Dear CAAC members:

On September 30, 2021, GSA Senior Procurement Executive (SPE) Jeff Koses signed [Class Deviation CD-2021-13](#), which approves a class deviation from the FAR to implement the COVID safety protocols required by Executive Order (EO) 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.

Just sharing a copy for your awareness.

Thanks,

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

--

To unsubscribe from this group and stop receiving emails from it, send an email to CAAC_RelatedDistributionList+unsubscribe@gsa.gov.

To: [O'Rourke, Andrew . \(HQ-LP011\)](#)
Subject: FW: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Wednesday, September 22, 2021 3:34:05 PM

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Wednesday, September 22, 2021 3:55 PM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; White-Jones, Glenae C (HQ-LP010) [Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Cc: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR

Email Already Processed

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Monday, September 20, 2021 12:14 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: FW: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Email Already Processed

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Sent: Monday, September 20, 2021 11:42 AM
To: Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Cc: Janet Fry - M1V1AC <janet.fry@gsa.gov>
Subject: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Wise, Julia B. \(HQ-LP011\)](#)
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Wednesday, September 22, 2021 3:38:10 PM

Okay – I'll start the draft PCD tomorrow.
-Diane

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Wednesday, September 22, 2021 3:55 PM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; White-Jones, Glenae C (HQ-LP010) [Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Cc: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

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Subject: FW: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors -

Email Already Processed

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>

Sent: Monday, September 20, 2021 11:42 AM

To: Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>

Cc: Janet Fry - M1V1AC <janet.fry@gsa.gov>

Subject: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

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(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Zenaida Delgado - M1V1CA](#)
To: [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#); [O'Rourke, Andrew . \(HQ-LP011\)](#); [Thompson, Diane \(HQ-LP013\)](#)
[Thompson, Diane \(HQ-LP011\)](#)
Cc: [Janet Fry - M1V1AC](#)
Subject: [EXTERNAL] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Wednesday, September 22, 2021 4:49:24 PM

Hello Teammates. (b) (5)

(b) (5)

If you have any additional comments or suggested edits on the FAR text version I sent you on 9-20, please send them to me at your earliest convenience so I may incorporate them into the FAR text.

I sent you an invite to meet tomorrow. That is only a placeholder. Please confirm your availability between 9 am to 12 pm so I may send a final invite for a time when all, or most, of us can meet. I suspect we'll need at least an hour to go over the FAR text. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

On Mon, Sep 20, 2021 at 11:42 AM Zenaida Delgado - M1V1CA

<zenaida.delgado@gsa.gov> wrote:

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Wise, Julia B. \(HQ-LP011\)](#)
To: [Barber, Scott \(HQ-MD000\)](#)
Cc: [Kauffman, Victoria \(HQ-MD000\)](#)
Subject: RE: [EXTERNAL] [Due Tomorrow] Supplemental Brief re 1707 in MD Fla
Date: Wednesday, December 22, 2021 11:54:27 AM

Scott,

Thanks for sharing this update. I'm glad the edit was helpful and incorporated into the brief.

Julia Wise | Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters
W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

From: Barber, Scott (HQ-MD000) <scott.barber@nasa.gov>
Sent: Wednesday, December 22, 2021 12:49 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Cc: Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>
Subject: Fwd: [EXTERNAL] [Due Tomorrow] Supplemental Brief re 1707 in MD Fla

Just for awareness, see below. (b) (5)

[REDACTED]

Begin Forwarded Message:

From: "Alex Vincent - LR" <alexander.vincent@gsa.gov>
Subject: Re: [EXTERNAL] [Due Tomorrow] Supplemental Brief re 1707 in MD Fla
Date: 22 December 2021 12:29
To: "Barber, Scott (HQ-MD000)" <scott.barber@nasa.gov>
Cc: (b) (7)(C) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] "Garg, Arpit K. EOP/OMB" (b) (6) >,
(b) (7)(C) [REDACTED] "Thomas, Barbara E. EOP/OMB"
<(b) (6) [REDACTED] "Nusraty, Tim H. EOP/OMB"
<(b) (6) [REDACTED] >, "Upadhyaya, Shraddha A. EOP/OMB"
<(b) (6) [REDACTED] >, "Scheinman, Sarah R. EOP/OMB"
<(b) (6) [REDACTED] >, (b) (7)(C) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(b) (7)(C) "Bagenstos, Samuel R. EOP/OMB"
(b) (6) , "Diederich, Bryan R. (HQ-MB000)"
<bryan.r.diederich@nasa.gov>, "Kauffman, Victoria (HQ-MD000)"
<victoria.h.kauffman@nasa.gov>, "Hecker, Karen L CIV OSD OGC (USA)"
<karen.l.hecker.civ@mail.mil>, "alcides.ortiz-ferrari.civ@mail.mil" <alcides.ortiz-ferrari.civ@mail.mil>, (b) (7)(C)
"Nathan Guerrero - LP" <nathan.guerrero@gsa.gov>, "Lesley Uhr - LR"
<lesley.uhr@gsa.gov>

Scott and Kevin,

(b) (5)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Alex

On Wed, Dec 22, 2021 at 10:33 AM Barber, Scott (HQ-MD000)
<scott.barber@nasa.gov> wrote:

Email Already Processed

Referred to Department of Justice

--

[Alexander C. Vincent, Esq.](#)

Assistant General Counsel, Real Property Division (LR)

Office of the General Counsel

U.S. General Services Administration

1800 F Street, N.W., Room 2002A

Washington, DC 20405-0001

Direct: (202) 969-7127

Cell: (b) (6)

Facsimile: (202) 501-1944

E-mail: Alexander.Vincent@gsa.gov

From: [White-Jones, Glenae C \(HQ-LP010\)\[Total Solutions Inc\]](#)
To: [Jackson, Karla Smith \(HQ-LP010\)](#)
Subject: FW: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Thursday, September 23, 2021 6:59:41 AM

Good Morning Karla:

Will you be working the morning of October 1?

Glenae White-Jones
Program Support Analyst II
NASA HQ Office of Procurement
Phone: 202-358-1280
Email: glenae.c.white-jones-1@nasa.gov

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Wednesday, September 22, 2021 4:45 PM
To: White-Jones, Glenae C (HQ-LP010)[Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Email Already Processed

From: White-Jones, Glenae C (HQ-LP010)[Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Sent: Wednesday, September 22, 2021 4:03 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Email Already Processed

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Wednesday, September 22, 2021 3:55 PM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; White-Jones, Glenae C (HQ-LP010) [Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>

Cc: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

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From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Monday, September 20, 2021 12:14 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: FW: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Email Already Processed

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Sent: Monday, September 20, 2021 11:42 AM

To: Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>

Cc: Janet Fry - M1V1AC <janet.fry@gsa.gov>

Subject: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Zenaida Delgado - M1V1CA](#)
To: [Thompson, Diane \(HQ-LP011\)](#); [O'Rourke, Andrew . \(HQ-LP011\)](#); [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#)
Cc: [Janet Fry - M1V1AC](#)
Subject: Re: [EXTERNAL] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Thursday, September 23, 2021 7:22:41 AM

Good morning All. Thanks (b) (5)

Since we are all available I'll set our meeting for 10 am. Thanks!

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

On Thu, Sep 23, 2021 at 8:01 AM Thompson, Diane (HQ-LP011)
<diane.thompson@nasa.gov> wrote:

Hi Z:

I am available to meet today, anytime between 9 to 12pm. NASA has one comment below:

The draft clause, subparagraph (X), states that “Nothing in this clause excuses noncompliance with any applicable State law or municipal ordinance establishing more protective safety protocols than those established by the Safer Federal Workforce Task Force, or with any more protective Federal law, regulation, or agency instructions for contractor or subcontractor employees working at a Federal building or federally-controlled workplace.”

However, it does not state what to do if a state law or municipal ordinance prohibits protocols established by the Safer Federal Workforce Task Force, or with any more protective Federal law, regulation, or agency instructions Federal protocol. For example, the state of Montana recently passed a law requiring vaccines as a condition for employment is deemed “discrimination” and a violation of the state’s human rights laws.

NASA suggests that either the policy or clause address how to handle this situation – namely what to do if a state law or municipal ordinance prohibits requiring Covid vaccination. There may be something already in the Task Force guidance, but we’d like to discuss if it should be included in the FAR itself.

Regards,

Diane

Diane Thompson

FAR Regulatory Manager, NASA

Procurement Management and Policy Division

Office of Procurement

National Aeronautics and Space Administration

300 E St SW, Washington DC 20546

202.358.0514 (office)

(b) (6) (cell)

Website: <https://www.nasa.gov/office/procurement>



From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>

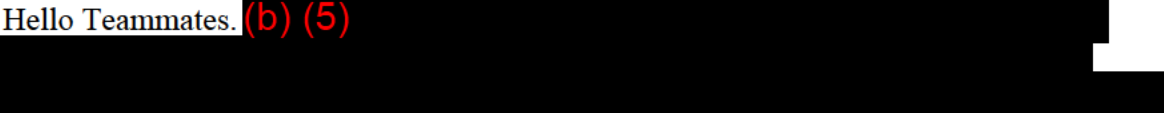
Sent: Wednesday, September 22, 2021 5:49 PM

To: Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>;
O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>

Cc: Janet Fry - M1V1AC <janet.fry@gsa.gov>

Subject: [EXTERNAL] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Hello Teammates. (b) (5)



(b) (5)

If you have any additional comments or suggested edits on the FAR text version I sent you on 9-20, please send them to me at your earliest convenience so I may incorporate them into the FAR text.

I sent you an invite to meet tomorrow. That is only a placeholder. Please confirm your availability between 9 am to 12 pm so I may send a final invite for a time when all, or most, of us can meet. I suspect we'll need at least an hour to go over the FAR text. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

On Mon, Sep 20, 2021 at 11:42 AM Zenaida Delgado - M1V1CA
<zenaida.delgado@gsa.gov> wrote:

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

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Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

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zenaida.delgado@gsa.gov

From: [Wise, Julia B. \(HQ-LP011\)](#)
To: [White-Jones, Glenae C \(HQ-LP010\)\[Total Solutions Inc\]](#)
Bcc: [Roets, William \(HQ-LP010\)](#)
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Thursday, September 23, 2021 8:11:55 AM

Good Morning Glenae,

It should be all POs for sure. Please confirm if Karla wants to invite DPOs. Also, please invite Diane Thompson and Jim Becker as they will likely be doing the briefing for or with me.

Thank you,

Julia

From: White-Jones, Glenae C (HQ-LP010)[Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Sent: Thursday, September 23, 2021 9:07 AM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Email Already Processed

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Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

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Sent: Wednesday, September 22, 2021 3:55 PM

To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; White-Jones, Glenae C (HQ-LP010) [Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>

Cc: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>

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Subject: FW: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

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From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>

Sent: Monday, September 20, 2021 11:42 AM

To: Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>

Cc: Janet Fry - M1V1AC <janet.fry@gsa.gov>

Subject: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

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Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Wise, Julia B. \(HQ-LP011\)](#)
To: [White-Jones, Glenae C \(HQ-LP010\)\[Total Solutions Inc\]](#)
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Thursday, September 23, 2021 8:11:56 AM

Good Morning Glenae,

It should be all POs for sure. Please confirm if Karla wants to invite DPOs. Also, please invite Diane Thompson and Jim Becker as they will likely be doing the briefing for or with me.

Thank you,

Julia

From: White-Jones, Glenae C (HQ-LP010)[Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Sent: Thursday, September 23, 2021 9:07 AM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

I spoke with Karla and she ok'd October 1 as the date. She will be working the morning of. An invite has been sent. Please look over the invitees to be sure I invited everyone.

Thanks,

Glenae White-Jones
Program Support Analyst II
NASA HQ Office of Procurement
Phone: 202-358-1280
Email: glenae.c.white-jones-1@nasa.gov

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Wednesday, September 22, 2021 4:45 PM
To: White-Jones, Glenae C (HQ-LP010)[Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Anytime that week will work if Karla can not do it on October 1st in the morning.

From: White-Jones, Glenae C (HQ-LP010)[Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>
Sent: Wednesday, September 22, 2021 4:03 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Julia:

Karla will be on annual leave on Oct 1 especially after 12pm. Is there any other day?

Glenae White-Jones
Program Support Analyst II
NASA HQ Office of Procurement

Phone: 202-358-1280

Email: glenae.c.white-jones-1@nasa.gov

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>

Sent: Wednesday, September 22, 2021 3:55 PM

To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; White-Jones, Glenae C (HQ-LP010) [Total Solutions Inc] <glenae.c.white-jones-1@nasa.gov>

Cc: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>; Roets, William (HQ-LP010) <william.roets-1@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>

Subject: RE: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Hi Diane,

Please start drafting the template for the COVID deviation. Karla also wants to have a Overview and Q&A session with the POs about the deviation that will be issued to the workforce for incorporation into contracts.

Glenae, Friday, October 1, 2021 may be the only day we can do it but let me know what Karla and Bill have available. Also, all POs will need to be invited to this meeting.

We will provide the RAH 2 days before the meeting.

Thank you,

Julia

Julia Wise
Director, Procurement Management and Policy Division
Office of Procurement
(202)358-0020
Julia.b.wise@nasa.gov

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Sent: Monday, September 20, 2021 12:14 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: FW: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Hi Julia

The attached is still ***draft*** and predecisional, and should not be shared or used to draft NASA guidance. I'm just keeping you informed on where we are on the FAR activities concerning the COVID clause for deviations.

Thanks

Diane

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Sent: Monday, September 20, 2021 11:42 AM
To: Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Cc: Janet Fry - M1V1AC <janet.fry@gsa.gov>
Subject: [EXTERNAL] Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Jeffrey Koses - M1V](#)
To: [Blum, Mathew C. EOP/OMB](#)
Cc: [Tenaglia, John M.SES OSD OUSD A-S \(USA\)](#); [Linda W. Neilson \(linda.w.neilson.civ@mail.mil\)](#); [Calisti - AF \(scott.r.calisti.civ@mail.mil\)](#); [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#); [William Clark - M1V1C; janet.fry@gsa.gov](#); [Jackson, Karla Smith \(HQ-LP010\)](#); [Wise, Julia B. \(HQ-LP011\)-NASA](#); [Diane Thompson \(diane.thompson@nasa.gov\)](#); [zenaida.delgado@gsa.gov](#); [Field, Lesley A. EOP/OMB](#); [Manolache, Iulia Z. EOP/OMB](#); [Wise, Julia B. \(HQ-LP011\)](#); [Thompson, Diane \(HQ-LP011\)](#)
Subject: [EXTERNAL] Re: Near-Final Task Force Guidance on the Implementation of EO 14042
Date: Thursday, September 23, 2021 8:56:27 AM

Good Morning

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

Jeffrey A. Koses
Senior Procurement Executive
U.S. General Services Administration
703.605.5535

On Wed, Sep 22, 2021 at 8:17 PM Blum, Mathew C. EOP/OMB

(b) (6) wrote:

Dear FAR Council Colleagues -

Please see attached close-hold near-final draft of the Task Force's guidance on the implementation of E.O. 14042. The Task Force advises that this draft reflects review by CDC, GSA, OPM, DOJ, EEOC, WHCO, and OMB staff.

The Task Force is only accepting red flag edits from the FAR Council related to contracting technical issues/FAR Council equities. If you have any such edits, please send them to us by noon on Thursday.

Thanks for your continued collaboration.

Mathew

From: [Zenaida Delgado - M1V1CA](#)
To: [Thompson, Diane \(HQ-LP013\)](#); [O'Rourke, Andrew . \(HQ-LP011\)](#); [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#); [Thompson, Diane \(HQ-LP011\)](#)
Cc: [Janet Fry - M1V1CA](#)
Subject: [EXTERNAL] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Thursday, September 23, 2021 10:16:06 AM
Attachments: [2021-02X TAB A FAR Text COVID Safety Protocols - up to FAC 07 - 09-23-2021 after 10am mtg.docx](#)

Hello Team. As agreed, please, find attached the latest version of the FAR text. We'll meet on Monday (9-27) at 8 am to go over any needed changes.

Thanks for your flexibility, energy, and kindness in sharing your knowledge to get this task completed. Z

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

On Thu, Sep 23, 2021 at 10:04 AM Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov> wrote:

Latest version for discussion.

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

On Thu, Sep 23, 2021 at 9:26 AM Janet Fry - M1V1CA <janet.fry@gsa.gov> wrote:
Z,

I have 2 recommendations on the draft clause.

Thanks,
Janet



U.S. General Services Administration

Janet M. Fry

Director
Federal Acquisition Policy Division
Office of Government-wide Policy
Office 703-774-5274
www.gsa.gov

On Mon, Sep 20, 2021 at 11:42 AM Zenaida Delgado - M1V1CA

<zenaida.delgado@gsa.gov> wrote:

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

Referred to Department of Defense

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>

Sent: Friday, September 24, 2021 10:52 AM

To: Thompson, Diane (HQ-LP013) <diane.thompson@nasa.gov>; O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Moore, Carrie M CIV OSD OUSD A-S (USA) <carrie.m.moore8.civ@mail.mil>

Cc: Janet Fry - M1V1CA <janet.fry@gsa.gov>

Subject: [Non-DoD Source] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Hello Team. Attached is the latest version of the FAR deviation clause based on additional comments received from DoD and GSA.

(b) (5)



(b) (5)

Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

On Thu, Sep 23, 2021 at 11:15 AM Zenaida Delgado - M1V1CA
<zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov > > wrote:

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Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

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zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

On Thu, Sep 23, 2021 at 10:04 AM Zenaida Delgado - M1V1CA
<zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov > > wrote:

Latest version for discussion.

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

On Thu, Sep 23, 2021 at 9:26 AM Janet Fry - M1V1CA <janet.fry@gsa.gov < Caution-mailto:janet.fry@gsa.gov > > wrote:

Z,

I have 2 recommendations on the draft clause.

Thanks,
Janet



U.S. General Services Administration

Janet M. Fry

Director

Federal Acquisition Policy Division

Office of Government-wide Policy

Office 703-774-5274

Caution-www.gsa.gov < Caution-http://www.gsa.gov >

On Mon, Sep 20, 2021 at 11:42 AM Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov > > wrote:

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(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

From: [Zenaida Delgado - M1V1CA](#)
To: [Thompson, Diane \(HQ-LP011\)](#)
Cc: [O'Rourke, Andrew . \(HQ-LP011\)](#); [Moore, Carrie M CIV OSD OUSD ATL \(US\)](#); [Janet Fry - M1V1CA](#)
Subject: Re: [EXTERNAL] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Friday, September 24, 2021 11:39:55 AM

Thanks Diane!

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

On Fri, Sep 24, 2021 at 12:28 PM Thompson, Diane (HQ-LP011)
<diane.thompson@nasa.gov> wrote:

Hi Z,

I am out of office today, but have read the draft clause and concur. I will not be in the 5pm call, but expect Julia Wise to participate for NASA.

Call me on my work cell if a call is needed at 1:30 (b) (6)

Thanks, Diane

On: 24 September 2021 10:53, "Zenaida Delgado - M1V1CA" <zenaida.delgado@gsa.gov> wrote:

Hello Team. Attached is the latest version of the FAR deviation clause based on additional comments received from DoD and GSA.

(b) (5)



(b) (5)

hanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

On Thu, Sep 23, 2021 at 11:15 AM Zenaida Delgado - M1V1CA

<zenaida.delgado@gsa.gov> wrote:

Hello Team. As agreed, please, find attached the latest version of the FAR text. We'll meet on Monday (9-27) at 8 am to go over any needed changes.

Thanks for your flexibility, energy, and kindness in sharing your knowledge to get this task completed. Z

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

On Thu, Sep 23, 2021 at 10:04 AM Zenaida Delgado - M1V1CA

<zenaida.delgado@gsa.gov> wrote:

Latest version for discussion.

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

On Thu, Sep 23, 2021 at 9:26 AM Janet Fry - M1V1CA

<janet.fry@gsa.gov> wrote:

Z,

I have 2 recommendations on the draft clause.

Thanks,
Janet



U.S. General Services Administration

Janet M. Fry

Director

Federal Acquisition Policy Division

Office of Government-wide Policy

Office 703-774-5274

www.gsa.gov

On Mon, Sep 20, 2021 at 11:42 AM Zenaida Delgado - M1V1CA

<zenaida.delgado@gsa.gov> wrote:

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(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

From: [Zenaida Delgado - M1V1CA](#)
To: [Moore, Carrie M CIV OSD OUSD A-S \(USA\)](#)
Cc: [Thompson, Diane \(HQ-LP013\)](#); [O'Rourke, Andrew . \(HQ-LP011\)](#); [Janet Fry - M1V1CA](#); [Neilson, Linda W SES OSD OUSD A-S \(USA\)](#); [Wise, Julia](#); [Thompson, Diane \(HQ-LP011\)](#); [Wise, Julia B. \(HQ-LP011\)](#)
Subject: [EXTERNAL] Re: [Non-DoD Source] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft
Date: Friday, September 24, 2021 3:18:08 PM
Attachments: [COVID EO - FAR deviation clause - up to FAC 07 - 09-24-2021 4 pm.docx](#)

Hello Carrie. Thanks for your comments. (b) (5)

. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff
Office of Government-wide Policy
General Services Administration
Office 202-969-7207 | Mobile (b) (6)
zenaida.delgado@gsa.gov

Referred to Department of Defense

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Sent: Friday, September 24, 2021 10:52 AM
To: Thompson, Diane (HQ-LP013) <diane.thompson@nasa.gov>; O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>; Moore, Carrie M CIV OSD OUSD A-S (USA) <carrie.m.moore8.civ@mail.mil>
Cc: Janet Fry - M1V1CA <janet.fry@gsa.gov>
Subject: [Non-DoD Source] Re: Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - FAR text draft

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

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(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

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<zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov > > wrote:

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Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

On Thu, Sep 23, 2021 at 10:04 AM Zenaida Delgado - M1V1CA

<zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov > > wrote:

Latest version for discussion.

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

On Thu, Sep 23, 2021 at 9:26 AM Janet Fry - M1V1CA <janet.fry@gsa.gov < Caution-mailto:janet.fry@gsa.gov > > wrote:

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I have 2 recommendations on the draft clause.

Thanks,

Janet



U.S. General Services Administration

Janet M. Fry

Director

Federal Acquisition Policy Division

Office of Government-wide Policy

Office 703-774-5274

[Caution-www.gsa.gov](http://www.gsa.gov) < Caution-<http://www.gsa.gov> >

On Mon, Sep 20, 2021 at 11:42 AM Zenaida Delgado - M1V1CA
<zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov > > wrote:

Good morning Colleagues. As agreed, please find the first draft of the FAR text for implementing Executive Order 14042, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, in the FAR.

(b) (5)

(b) (5)

Please provide any comments you may have. Thanks, Z

Zenaida Delgado

Procurement Analyst, FAR Staff

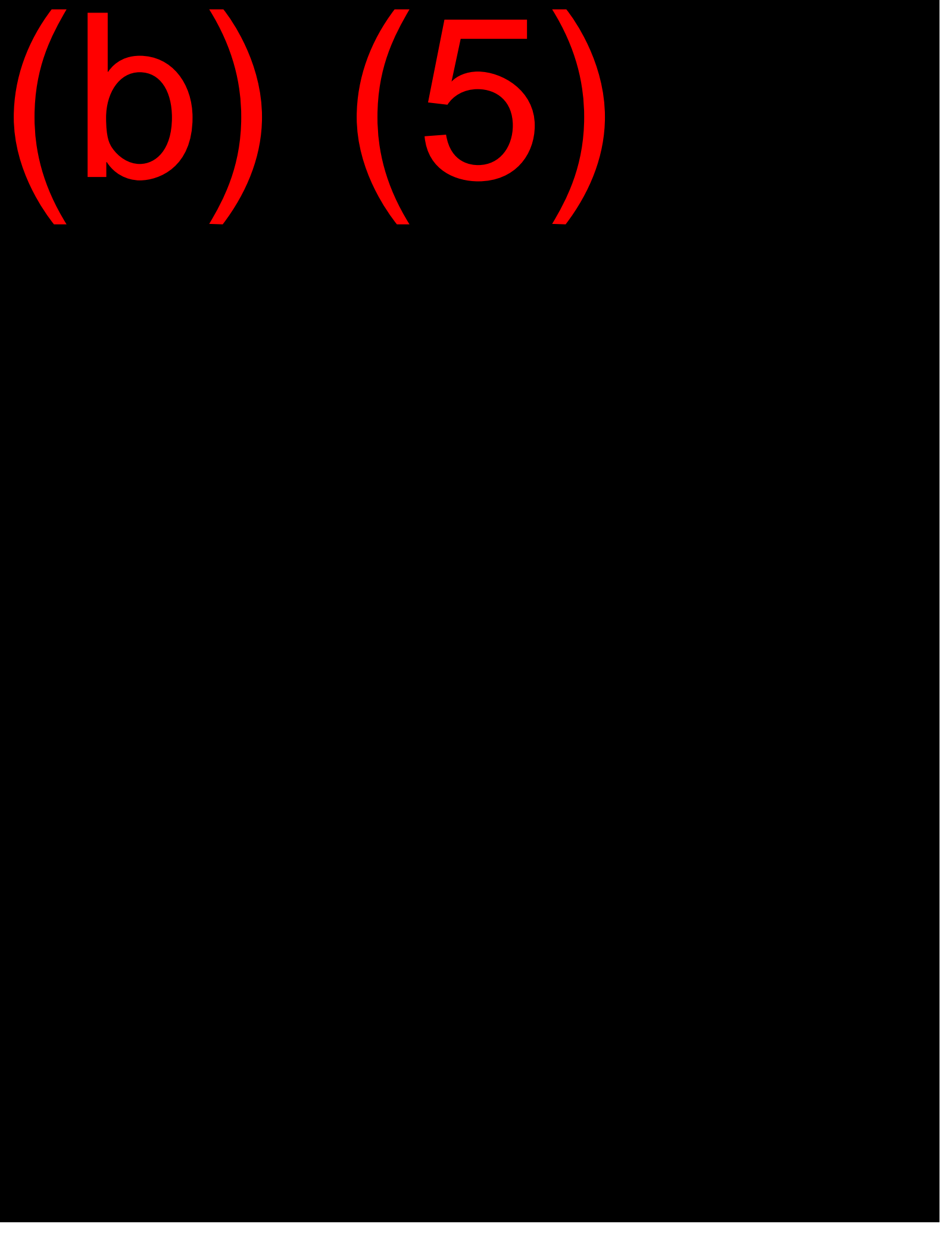
Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

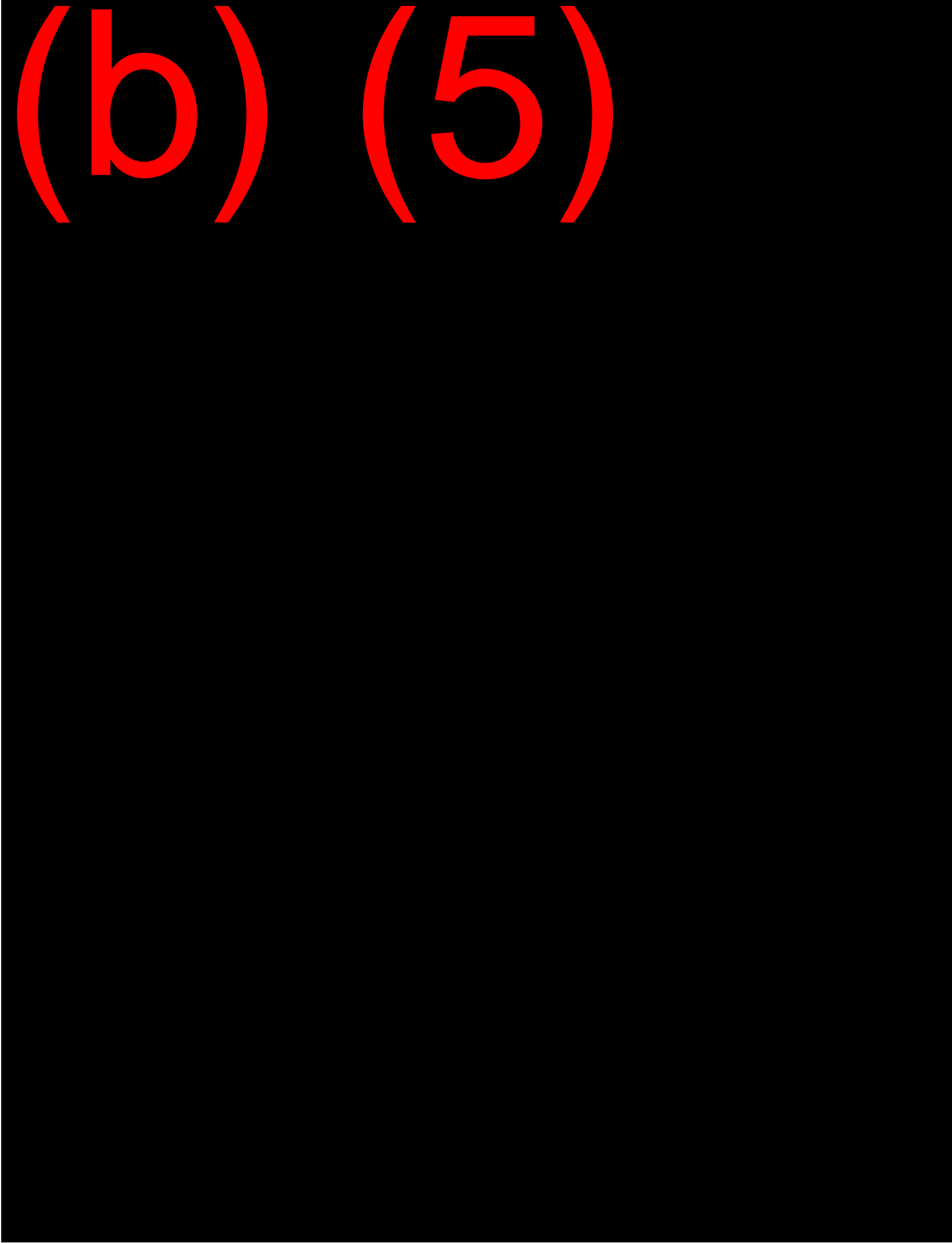
zenaida.delgado@gsa.gov < Caution-mailto:zenaida.delgado@gsa.gov >

(b) (5)



(b) (5)

(b) (5)



(b) (5)

From: [Cullen, Jeffrey M. \(HQ-LP012\)](#)
To: [Stacy Swann - QC2AA](#); [Wise, Julia B. \(HQ-LP011\)](#)
Cc: [Roets, William \(HQ-LP010\)](#)
Subject: RE: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors
Date: Tuesday, October 26, 2021 1:46:25 PM

Thanks, Stacy, shared with our Procurement Officers.

From: Stacy Swann - QC2AA <stacy.swann@gsa.gov>
Sent: Tuesday, October 26, 2021 1:40 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>
Cc: Roets, William (HQ-LP010) <william.roets-1@nasa.gov>
Subject: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

Julia & Jeff

I've been getting a few questions about our implementation of EO14042, so I wanted to pass along this update to provide clarity.

Per this GSA blog, modifications began being sent to vendors on ALL our contracts on October 8th to add the clause FAR 52.223-99.

Vendors have until **Nov 14th, 2021** to accept the modification.

https://interact.gsa.gov/document/important-upcoming-refreshmass-modification-gsa-multiple-award-schedule-mas-and-other-fas?utm_medium=email&utm_source=govDelivery

Ordering agencies should include the new clause in any new solicitations (RFP/RFQs) issued before **November 14th**, as there isn't a good way to validate whether the vendor has accepted their mod. After 14 NOV, all contracts will have been modified, so it wouldn't be an issue.

Also be aware, clauses added at the Master Contract level **do not retroactively apply** to existing task orders, **only new ones, therefore existing task orders should be modified to add the clause.**

CAAC produced a [memo](#) that provides some direction and guidance that may help.

Please let me know if you have any questions!
Let me know if you'd like me to send this out to all the procurement directors.

Thanks,
Stacy

Stacy
Stacy Swann
National Account Manager
GSA Federal Acquisition Service
Customer Accounts & Stakeholder Engagement
(202) 302-0738

GSA Maintenance Repair Facility Supplies (MRFS) has over 13 million tools, hardware and janitorial Items in [stock!](https://www.gsaadvantage.gov/advantage/ws/catalog/strategic_sourcing?group=5)
(https://www.gsaadvantage.gov/advantage/ws/catalog/strategic_sourcing?group=5)

From: [Thompson, Diane \(HQ-LP011\)](#)
To: [O'Rourke, Andrew . \(HQ-LP011\)](#)
Subject: RE: Comments due NLT 4 pm on 9/28/21 - Draft CAAC Letter implementing EO 14042
Date: Tuesday, September 28, 2021 6:41:51 AM

Thanks Andy!

From: O'Rourke, Andrew . (HQ-LP011) <andrew.orourke@nasa.gov>
Sent: Tuesday, September 28, 2021 7:35 AM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Subject: RE: Comments due NLT 4 pm on 9/28/21 - Draft CAAC Letter implementing EO 14042

Diane: I looked it over and it looks ok to me. Seems that (b) (5) paragraph was not included and that is probably a good thing. Andy

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Sent: Monday, September 27, 2021 5:43 PM
To: &CAAC_RelatedDistributionList <CAAC_RelatedDistributionList@gsa.gov>
Subject: [EXTERNAL] Comments due NLT 4 pm on 9/28/21 - Draft CAAC Letter implementing EO 14042

Good evening CAAC,

Attached is the draft CAAC Letter regarding implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors. The CAAC Letter includes the draft FAR deviation clause as shared today on the OMB SPE call.

Please provide comments on the CAAC Letter and draft deviation clause to Zenaida Delgado at zenaida.delgado@gsa.gov by **NLT 4 pm Tuesday, September 28, 2021.**

Thank you,

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

--

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To: [Zenaida Delgado - M1V1CA](#)
Cc: [Wise, Julia B. \(HQ-LP011\)](#)
Subject: RE: [EXTERNAL] Comments due NLT 4 pm on 9/28/21 - Draft CAAC Letter implementing EO 14042
Date: Tuesday, September 28, 2021 2:34:54 PM
Attachments: [Draft CAAC Letter 202X-0X on EO 14042 09.28.2021 \(NASA edits\).docx](#)

Good Afternoon Z:

NASA's edits to the draft CAAC letter are on the attached.

Regards,

Diane

Diane Thompson

FAR Regulatory Manager, NASA
Procurement Management and Policy Division
Office of Procurement
National Aeronautics and Space Administration
300 E St SW, Washington DC 20546
202.358.0514 (office)
(b) (6) (cell)

Website: <https://www.nasa.gov/office/procurement>

From: Zenaida Delgado - M1V1CA <zenaida.delgado@gsa.gov>
Sent: Monday, September 27, 2021 5:43 PM
To: &CAAC_RelatedDistributionList <CAAC_RelatedDistributionList@gsa.gov>
Subject: [EXTERNAL] Comments due NLT 4 pm on 9/28/21 - Draft CAAC Letter implementing EO 14042

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Please provide comments on the CAAC Letter and draft deviation clause to Zenaida Delgado at zenaida.delgado@gsa.gov by **NLT 4 pm Tuesday, September 28, 2021**.

Thank you,

Zenaida Delgado

Procurement Analyst, FAR Staff

Office of Government-wide Policy

General Services Administration

Office 202-969-7207 | Mobile (b) (6)

zenaida.delgado@gsa.gov

--

To unsubscribe from this group and stop receiving emails from it, send an email to CAAC_RelatedDistributionList+unsubscribe@gsa.gov.

From: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
To: [Becker, James L. \(GSFC-LP010\)](#)
Cc: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Subject: FW: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors
Date: Thursday, October 28, 2021 12:59:30 PM

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Thursday, October 28, 2021 1:58 PM
To: Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>
Subject: FW: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

Hi Geoff,

Are you planning to share the GSA guidance to our folks via an emergency Procurement Dispatch notice?

Julia

Julia Wise| Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters
W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

From: Rochester, Laura (KSC-OP000) <laura.rochester-1@nasa.gov>
Sent: Thursday, October 28, 2021 1:38 PM
To: Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>; HQ-DL-OP-Procurement-Officers <hq-dl-op-procurement-officers@mail.nasa.gov>
Subject: Re: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

Hi Jeff,

Is this direction for us to start modifying any GSA task orders that we have that have some run time on them?

L

On: 26 October 2021 14:22, "Cullen, Jeffrey M. (HQ-LP012)" <jeffrey.m.cullen@nasa.gov> wrote:

From: Stacy Swann - QC2AA <stacy.swann@gsa.gov>

Sent: Tuesday, October 26, 2021 1:40 PM

To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>

Cc: Roets, William (HQ-LP010) <william.roets-1@nasa.gov>

Subject: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

Julia & Jeff

I've been getting a few questions about our implementation of EO14042, so I wanted to pass along this update to provide clarity.

Per this GSA blog, modifications began being sent to vendors on ALL our contracts on October 8th to add the clause FAR 52.223-99.

Vendors have until **Nov 14th, 2021** to accept the modification.

https://interact.gsa.gov/document/important-upcoming-refreshmass-modification-gsa-multiple-award-schedule-mas-and-other-fas?utm_medium=email&utm_source=govDelivery

Ordering agencies should include the new clause in any new solicitations (RFP/RFQs) issued before **November 14th**, as there isn't a good way to validate whether the vendor has accepted their mod. After 14 NOV, all contracts will have been modified, so it wouldn't be an issue.

Also be aware, clauses added at the Master Contract level **do not retroactively apply** to existing task orders, **only new ones, therefore existing task orders should be modified to add the clause.**

CAAC produced a [memo](#) that provides some direction and guidance that may help.

Please let me know if you have any questions!

Let me know if you'd like me to send this out to all the procurement directors.

Thanks,
Stacy

Stacy
Stacy Swann
National Account Manager

GSA Federal Acquisition Service
Customer Accounts & Stakeholder Engagement
(202) 302-0738

GSA Maintenance Repair Facility Supplies (MRFS) has over 13 million tools, hardware and janitorial items in [stock](#)!

(https://www.gsaadvantage.gov/advantage/ws/catalog/strategic_sourcing?group=5)

From: [Wise, Julia B. \(HQ-LP011\)](#)
To: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Cc: [Cullen, Jeffrey M. \(HQ-LP012\)](#)
Subject: RE: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors
Date: Thursday, October 28, 2021 4:14:51 PM

Geoff,

I concur with your response.

Thanks,

Julia Wise| Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters

W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

From: Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>
Sent: Thursday, October 28, 2021 2:11 PM
To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Cc: Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>; Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>
Subject: RE: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

Email Already Processed

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Thursday, October 28, 2021 1:58 PM
To: Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>
Subject: FW: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

Email Already Processed

Email Already Processed

From: Rochester, Laura (KSC-OP000) <laura.rochester-1@nasa.gov>

Sent: Thursday, October 28, 2021 1:38 PM

To: Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>; HQ-DL-OP-Procurement-Officers <hq-dl-op-procurement-officers@mail.nasa.gov>

Subject: Re: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

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To: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>

Cc: Roets, William (HQ-LP010) <william.roets-1@nasa.gov>

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Stacy
Stacy Swann
National Account Manager
GSA Federal Acquisition Service
Customer Accounts & Stakeholder Engagement
(202) 302-0738

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(https://www.gsaadvantage.gov/advantage/ws/catalog/strategic_sourcing?group=5)

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To: [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Cc: [Cullen, Jeffrey M. \(HQ-LP012\)](#); [Sage, Geoffrey S. {Sage} \(HQ-LP010\)](#)
Subject: Re: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors
Date: Friday, October 29, 2021 11:45:02 AM

Thanks Geoff.

On: 28 October 2021 14:10, "Sage, Geoffrey S. {Sage} (HQ-LP010)"
<geoffrey.s.sage@nasa.gov> wrote:

I don't believe a revision to PCD 21-03 is necessary as the existing PCD instructions already require contracting officers to add the clause to "All existing contracts, **orders**, BPAs, and cooperative agreements, above the simplified acquisition threshold (SAT) via a bilateral modification;" (emphasis added). Based on this direct CO should already be adding the clause to existing GSA orders.

From: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Sent: Thursday, October 28, 2021 1:58 PM
To: Sage, Geoffrey S. {Sage} (HQ-LP010) <geoffrey.s.sage@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Cullen, Jeffrey M. (HQ-LP012) <jeffrey.m.cullen@nasa.gov>
Subject: FW: [EXTERNAL] GSA's Implement EO 14042: Ensuring Adequate COVID Safety Protocols for Federal Contractors

Hi Geoff,

Are you planning to share the GSA guidance to our folks via an emergency Procurement Dispatch notice?

Julia

Julia Wise| Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters
W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

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Thanks,
Stacy

Stacy
Stacy Swann
National Account Manager
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(https://www.gsaadvantage.gov/advantage/ws/catalog/strategic_sourcing?group=5)

From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Kauffman, Victoria \(HQ-MD000\)](#)
Cc: [Wise, Julia B. \(HQ-LP011\)](#); [Thompson, Diane \(HQ-LP011\)](#)
Subject: Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment
Date: Monday, November 29, 2021 11:52:04 AM

Hi Tory:

I thought I'd mentioned this to you, but can't find an email sent. GSA sent the question below to us regarding the NASA's class deviation for EO 14042. Specifically, Bill Clark is asking the other FAR Council principals for their opinion on whether rental and leasing of cars or equipment falls into the category of a "service" or "product". GSA is trying to gauge how other agencies treat the rental or leasing of cars or equipment, and whether they're including the deviated FAR COVID clause in those contracts.

Jim Becker in OP ran a NAICS search which would seem to indicate that these activities fall into NAICS 532 subcategories for Rental and Leasing *Services*. Relative to how NASA implemented PCD 21-03A <https://www.hq.nasa.gov/office/procurement/regs/pcd/pcd21-03A.pdf>, is it your opinion that NASA should be including the COVID clause in those contracts?

I'd be happy to discuss.

Thanks,
Diane

Diane Thompson
FAR Regulatory Manager, NASA
Procurement Management and Policy Division
Office of Procurement
National Aeronautics and Space Administration
300 E St SW, Washington DC 20546
202.358.0514 (office)
(b) (6) (cell)



From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Wednesday, November 17, 2021 4:54 PM
To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Janet Fry - M1V1CA <janet.fry@gsa.gov>
Subject: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Hi Linda and Diane,

(b) (5)

We appreciate your thoughts on the matter, and will be happy to discuss the matter on the next Monday call if needed.

Regards,

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

Sent to OMB/WH for Consultation

On Sep 30, 2021, at 5:13 PM, Jeffrey Koses - M1V <jeffrey.koses@gsa.gov> wrote:

and completing the circuit...

Happy fiscal new year all...

Jeffrey A. Koses
Senior Procurement Executive
U.S. General Services Administration
703.605.5535

Referred to Department of Defense

-----Original Message-----

From: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>

Sent: Thursday, September 30, 2021 4:54 PM

To: Kuk, Jennifer J. EOP/OMB (b) (6); Blum,
Mathew C. EOP/OMB (b) (6) Tenaglia, John M

SES OSD OUSD A-S (USA) <john.m.tenaglia2.civ@mail.mil>; 'Jeffrey Koses' <jeffrey.koses@gsa.gov>; Field, Lesley A. EOP/OMB

(b) (6)

Cc: William Clark - MIVIC <william.clark@gsa.gov>; Janet Fry - MIVICA <janet.fry@gsa.gov>; Neilson, Linda W SES OSD OUSD A-S (USA) <linda.w.neilson.civ@mail.mil>; Moore, Carrie M CIV OSD OUSD A-S (USA) <carrie.m.moore8.civ@mail.mil>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Manolache, Iulia Z. EOP/OMB

(b) (6)

Davis-Christian, Margaret B. EOP/OMB

(b) (6)

Subject: [Non-DoD Source] RE: [EXTERNAL] URGENT - DIGITAL SIGNATURES NEEDED

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Thank you,

Happy New Year everybody!!

Vr

Karla

Sent to OMB/WH for Consultation

Sent to OMB/WH for Consultation

From: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov> <
Caution-mailto:karla.s.jackson@nasa.gov> >
Sent: Thursday, September 30, 2021 4:47 PM
To: Blum, Mathew C. EOP/OMB (b) (6)

Caution-mailto:(b) (6) >; Tenaglia, John M SES
OSD OUSD A-S (USA) <john.m.tenaglia2.civ@mail.mil < Caution-
mailto:john.m.tenaglia2.civ@mail.mil > >; 'Jeffrey Koses'
<jeffrey.koses@gsa.gov < Caution-mailto:jeffrey.koses@gsa.gov > >; Field,
Lesley A. EOP/OMB (b) (6) < Caution-
mailto:(b) (6) >
Cc: William Clark - MIV1C <william.clark@gsa.gov < Caution-
mailto:william.clark@gsa.gov > >; Janet Fry - MIV1CA <janet.fry@gsa.gov <
Caution-mailto:janet.fry@gsa.gov > >; 'Linda W. Neilson
(linda.w.neilson.civ@mail.mil < Caution-mailto:linda.w.neilson.civ@mail.mil
>)' <linda.w.neilson.civ@mail.mil < Caution-
mailto:linda.w.neilson.civ@mail.mil > >; Moore, Carrie M CIV OSD OUSD A-
S (USA) <carrie.m.moore8.civ@mail.mil < Caution-
mailto:carrie.m.moore8.civ@mail.mil > >; Wise, Julia B. (HQ-LP011)
<julia.b.wise@nasa.gov < Caution-mailto:julia.b.wise@nasa.gov > >;
Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov < Caution-
mailto:diane.thompson@nasa.gov > >; Manolache, Iulia Z. EOP/OMB
(b) (6) < Caution-
mailto:(b) (6) > >; Kuk, Jennifer J. EOP/OMB
(b) (6) < Caution-
mailto:(b) (6) >; Davis-Christian, Margaret B.
EOP/OMB (b) (6) < Caution-
mailto:(b) (6) >
Subject: RE: [EXTERNAL] URGENT - DIGITAL SIGNATURES NEEDED

Mathew,

I have a commitment that requires me to depart at 5pm – can sign now?

Vr

Karla

Sent to OMB/WH for Consultation



September 30, 2021

CAAC Letter 2021-03

MEMORANDUM FOR CIVILIAN AGENCIES

FROM: WILLIAM CLARK
CHAIR
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

WILLIAM CLARK
Digitally signed by WILLIAM CLARK
Date: 2021.09.30 14:09:12 -04'00'

SUBJECT: Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors

This CAAC Letter is being issued to serve as consultation in accordance with FAR 1.404, authorizing agencies to issue a class deviation to implement Executive Order 14042, [Ensuring Adequate COVID Safety Protocols for Federal Contractors](#).

Executive Order (E.O.) 14042 was signed by the President on September 9, 2021, and published in the Federal Register at 86 FR 50985 on September 14, 2021. The E.O. requires agencies to include a clause requiring contractors and subcontractors at any tier to comply with all guidance for contractor or subcontractor workplace locations as published by the Safer Federal Workforce Task Force ([Task Force Guidance](#)) at <https://www.saferfederalworkforce.gov/contractors/>. The clause applies to solicitations and contracts for services, including construction.

Agencies are **required** to include the clause in-

- new contracts awarded on or after November 14, 2021, from solicitations issued before October 15, 2021 (this includes new orders awarded on or after November 14, 2021, from solicitations issued before October 15, 2021, under existing indefinite-delivery contracts);
- new solicitations issued on or after October 15, 2021, and contracts awarded pursuant to those solicitations (this includes new solicitations issued on or after October 15, 2021, for orders awarded pursuant to those solicitations under existing indefinite-delivery contracts);
- extensions or renewals of existing contracts and orders awarded on or after October 15, 2021; and
- options on existing contracts and orders exercised on or after October 15, 2021.

To maximize the goal of getting more people vaccinated and decrease the spread of COVID-19, the Task Force strongly encourages agencies to apply the requirements of the Task Force Guidance broadly, consistent with applicable law. Accordingly, agencies are **encouraged, but are not required** to include the clause in-

- contracts that have been or will be awarded prior to November 14, 2021, on solicitations issued before October 15, 2021; and
- contracts that are not covered or directly addressed by the E.O. because the contract or subcontract is under the simplified acquisition threshold or is a contract or subcontract for the manufacturing of products.

The clause shall not be applied to:

- contracts and subcontracts with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) (the exclusion would not apply to a procurement contract or subcontract under the FAR to an Indian-owned or tribally-owned business entity); or
- solicitations and contracts if performance is outside the United States or its outlying areas (the exclusion is limited to employees who are performing work only outside the U.S. or its outlying areas).

Section 3(a) of the E.O. requires the FAR Council to take initial steps to implement appropriate policy direction to acquisition offices for use of the clause by recommending that agencies exercise their authority under FAR subpart 1.4.

The attached FAR deviation clause is provided consistent with the E.O. and the Task Force Guidance. (See Attachment). Contracting officers should follow the direction for use of the clause set forth in the deviations issued by their respective agencies.

This CAAC Letter constitutes consultation with the Chair of the CAAC required by FAR 1.404(a)(1) if your agency adopts the attached clause language without change in the agency's deviation. If your agency intends to use clause text different from the deviated clause text provided, the agency must consult with the CAAC Chair, William Clark, who will consult with OMB and the Task Force to ensure consistency with Administration policy. Any such request must be emailed to william.clark@gsa.gov. Agencies are advised to review, and update as necessary, any relevant guidance previously provided to contractors to ensure its consistency with the deviated clause text.

Once processed, agencies are requested to share the deviation widely among their workforces to ensure full awareness of and compliance with E.O. 14042. The FAR

Council has opened a case (FAR Case 2021-021, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors) to make appropriate amendments in the FAR to reflect the requirements of E.O. 14042. It is recommended that the deviation be made effective until the FAR is amended or the deviation is otherwise rescinded by the agency.

Agencies are reminded that FAR 1.404 requires agencies to furnish a copy of their approved class deviation (including direction to the workforce, prescription for use of clause, and clause text) to the FAR Secretariat, General Services Administration, by emailing the deviation to GSARegSec@gsa.gov. Agencies must submit their class deviations no later than October 15, 2021.

If you have any questions or require additional information about this Letter, please contact Zenaida Delgado at (202) 969-7207 or at zenaida.delgado@gsa.gov.

Attachment

FAR Deviation Clause

Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors

September 30, 2021

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 52.2—Text of Provisions and Clauses

[52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors.

ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION)

(a) *Definition.* As used in this clause -

United States or its outlying areas means—

- (1) The fifty States;**
- (2) The District of Columbia;**
- (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;**
- (4) The territories of American Samoa, Guam, and the United States Virgin Islands; and**
- (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.**

(b) *Authority.* This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the Federal Register on September 14, 2021, 86 FR 50985).

(c) *Compliance.* The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

(End of clause)]

To: [Wise, Julia B. \(HQ-LP011\)](#)
Cc: [Kauffman, Victoria \(HQ-MD000\)](#)
Subject: FW: Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment
Date: Saturday, January 1, 2022 7:34:00 AM

Hi Julia:

Tory Kauffman and I met this afternoon to discuss GSA's question regarding the rental or leasing of cars or equipment. We agree that most of the contracts for a vehicle or equipment are for the product itself. While it's understood that the NAICS code found by Jim Becker indicates that these activities fall into the subcategories for rental and leasing services, in the majority of these types of contracts we are procuring the vehicle, not the operator.

Please let me know if you agree with this conclusion that the rental or leasing of cars and equipment falls into the category of "product", if so; I can reply to GSA.

Thanks,
Diane

From: Thompson, Diane (HQ-LP011)
Sent: Monday, November 29, 2021 12:52 PM
To: Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Subject: Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

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I'd be happy to discuss.
Thanks,
Diane

Diane Thompson
FAR Regulatory Manager, NASA
Procurement Management and Policy Division
Office of Procurement
National Aeronautics and Space Administration

300 E St SW, Washington DC 20546
202.358.0514 (office)
(b) (6) (cell)

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Wednesday, November 17, 2021 4:54 PM
To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Moore, Carrie M CIV OSD OUSD ATL (US) <carrie.m.moore8.civ@mail.mil>; Janet Fry - M1V1CA <janet.fry@gsa.gov>
Subject: [EXTERNAL] Application of the COVID Safety Protocol Clause to Rental and Leasing of Cars or Equipment

Hi Linda and Diane,

(b) (5)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

We appreciate your thoughts on the matter, and will be happy to discuss the matter on the next Monday call if needed.

Regards,

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)



GSA Office of Governmentwide Policy

3/31/2022

Class Deviation CD-2021-13
Supplement 1

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM:

JEFFREY A. KOSES
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

DocuSigned by:

Jeffrey A. Koses

21BD80B8E8AC4A0

SUBJECT: Supplement to Class Deviation CD-2021-13 for
Executive Order 14042 Injunctions**1. Purpose.**

The purpose of this supplement to Class Deviation CD-2021-13 is to provide instructions on how GSA contracting activities are to implement injunctions related to this class deviation, including the [injunction](#) issued on February 10, 2022, by the United States District Court of Arizona that prohibits the inclusion of a clause implementing the vaccination requirement for Federal contractors and subcontractors in any contract to which a contracting party is domiciled in or headquartered in Arizona or where work will be principally performed in the State of Arizona. The court order may be supplemented, modified, or vacated, depending on the course of ongoing litigation.

2. Background.

The President signed [Executive Order 14042](#) on September 9, 2021, and the Executive Order was published in the Federal Register at 86 FR 50985 on September 14, 2021 ("E.O. 14042"). E.O. 14042 required Executive agencies and departments to include a clause requiring contractors and subcontractors to comply with all guidance for contractor or subcontractor workplace locations as published by the Safer Federal Workforce Task Force and approved by the Director of the Office of Management and Budget.

GSA implemented the vaccination requirement stemming from E.O. 14042 through [Class Deviation CD-2021-13](#). GSA implemented the deviation through a bilateral modification and updated over 30,000 contracts to include FAR clause 52.223-99 and

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405
www.gsa.gov

added the clause to solicitations issued after the effective date.

On November 30, 2021, the United States District Court, for the Eastern District of Kentucky, issued a preliminary [injunction](#) enjoining the Federal Government from enforcing the vaccination requirement for Federal contractors and subcontractors performing part or all of the contract work in Ohio, Kentucky, or Tennessee. In response to this preliminary injunction, on December 1, 2022 GSA issued an email notice to the GSA acquisition workforce to not take any action to enforce FAR Clause 52.223-99 in all covered contracts or contract-like instruments being performed, in whole or in part, in Kentucky, Ohio and Tennessee.

On December 7, 2021, the United States District Court for the Southern District of Georgia issued a preliminary [injunction](#) that halted the enforcement of the vaccination requirement for contractors and subcontractors nationwide. OMB provided updated guidance based on the preliminary injunctions instructing agencies not to take action to enforce the FAR clause implementing vaccination requirement for contractors and subcontractors in states subject to a court order.

Based on the updated guidance from OMB, on December 14, 2021, GSA issued a SAM.gov [notice](#) informing contractors that GSA will take no action to enforce FAR Clause 52.223-99 in any contract or contract-like instrument. In addition to the notice, GSA added a note to the Federal Supply Schedule (FSS) solicitation to explain that FAR Clause 52.223-99 will not be enforced in locations with an injunction in place.

The key points in the original GSA notice were:

- For contracts which contain FAR Clause 52.223-99, keep the clause in the contract, but do not enforce it.
- For contracts awarded after December 7, 2021, do not incorporate the clause into your contract (except for FSS Contracts as noted in Section 4).

On February 10, 2022, the United States District Court of Arizona issued an [injunction](#) that prohibits the inclusion of a clause implementing vaccination requirements for Federal contractors and subcontractors where the contracting party is domiciled in or headquartered in Arizona or where work will be principally performed in the State of Arizona.

To comply with the Arizona injunction, the Federal Government must take the additional step of explicitly excluding the FAR clause from new contracts and orders issued under existing contracts that contain the clause. .

3. Applicability.

This supplement applies to GSA contracting activities.

4. Requirements.

Except for FSS, no changes are required. Under existing guidance GSA is already not including FAR Clause 52.223-99 in any new contract. For all existing contracts with the clause, do not delete the clause but do not enforce it.

For Federal Supply Schedule (FSS) Contracts:

Due to a system limitation in the Solicitation Writing System (SWS), if GSA were to remove FAR Clause 52.223-99 from the solicitation, it would trigger a mass-modification to remove the clause from thousands of existing FSS contracts that are not impacted by the injunction.

As it is not possible to remove the clause from the solicitation without an unintended impact of also modifying existing contracts, add the text in Section 5 to the FSS solicitation.

When placing new orders against existing FSS contracts, where FAR Clause 52.223-99 already resides in the master contract, separate action is not required to delete the clause from the task order.

For Other Indefinite-Delivery Indefinite-Quantity (IDIQ) Contracts:

To ensure new orders placed against existing GSA IDIQs that include FAR Clause 52.223-99 are in compliance with the court order, GSA will post a notice to SAM.gov including the text in Section 5 to inform contractors that FAR Clause 52.223-99 is considered to be self-deleting.

When placing new orders against existing IDIQ contracts, where FAR Clause 52.223-99 already resides in the master contract, separate action is not required to delete the clause from the task order.

5. Required Note Text.

Per the requirements in Section 4 of this supplement, add the following note to the FSS solicitation. GSA's Office of Acquisition Policy will post notice to SAM.gov with the below language to provide information on applicability for other IDIQ contracts.

"COVID Safety Protocols

The Government will take no action to enforce the clause implementing requirements of Executive Order 14042, absent further written notice from the agency, where the place of performance identified in the contract is in a U.S. state or outlying area subject to a court order prohibiting the application of requirements pursuant to the Executive Order (hereinafter, "Excluded State or Outlying Area"). In all other circumstances, the Government will enforce the clause, except for contractor employees who perform substantial work on or in connection with a covered contract in an Excluded State or Outlying Area, or in a covered contractor workplace located in an Excluded State or Outlying Area. A current list of such Excluded States and Outlying Areas is maintained at <https://www.saferfederalworkforce.gov/contractors/>.

FAR Clause 52.223-99 is considered to be self-deleting in any contract or order issued after February 10, 2022, that meets one or both of the following criteria: (1) an entity domiciled or headquartered in the State of Arizona, including the State of Arizona or any of its agencies, is a party to the contract, or (2) work under the contract is to be performed principally in the State of Arizona.

FAR Clause 52.223-99 is considered to be self-deleting for extensions, options or renewals, if work is either principally performed in Arizona, or where a party is headquartered or domiciled in Arizona"

6. Effective Date.

This Supplement is effective immediately and remains in effect until rescinded or incorporated into the FAR or GSAM.

7. Point of Contact.

Any questions regarding this letter may be directed to GSARPolicy@gsa.gov.




GSA Office of Governmentwide Policy

3/31/2022

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Davillier Law Group, LLC
414 Church Street
Suite 308
Sandpoint, Idaho 83864

TO:

12-3-21

Robin Carnahan, Administrator
United States General Services
Administration
1800 F. Street, NW
Washington, DC 20540

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TO:

Jeffrey A. Koses
Senior Procurement Executive & Deputy Chief
Acquisition Officer
United States General Services Administration
1800 F Street, NW
Washington, DC 20405

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Subject: FW: COVID-19 Contractor Vaccination Lawsuit : US Freedom Flyers-- Health Defense Fund Suit
Date: Tuesday, January 11, 2022 9:42:52 PM
Attachments: [OGC & Robin Carnahan & Jeff Koses - Davillier Law Group.pdf](#)

Good Afternoon Karla:

GSA sent us a copy of the attached lawsuit from US Freedom Flyers, an association; the Health Freedom Defense Fund, Inc, a not-for-profit public benefits corporation; and several individuals who are employees of airlines and transportation federal contractors. The FAR Council members are named among the defendants. The plaintiffs' request is to hold Executive Order 14042, the original and revised OMB COVID guidance, including the Task Force guidance, and the FAR Council guidance to be unlawful and provide preliminary and injunctive relief. In addition to the FAR implications, GSA is particularly concerned about impacts to the City Pairs Program for air transportation to federal government travelers.

This suit was not discussed in its specifics during today's FAR call with OFPP. But OFPP did request the FAR Council to continue with the COVID proposed FAR rule, by including a paragraph with the disclaimer that there is a nation-wide injunction against the EO enforcement. OFPP will assist with drafting that paragraph.

Regards,
Diane

Diane Thompson
FAR Regulatory Manager, NASA
Procurement Management and Policy Division
Office of Procurement
National Aeronautics and Space Administration
300 E St SW, Washington DC 20546
202.358.0514 (office)
(b) (6) (cell)

From: William Clark - M1V1C <william.clark@gsa.gov>
Sent: Monday, December 13, 2021 10:57 AM
To: Neilson, Linda W SES OSD OUSD ATL (US) <linda.w.neilson.civ@mail.mil>; Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Cc: Janet Fry - M1V1CA <janet.fry@gsa.gov>
Subject: [EXTERNAL] Fwd: US Freedom Flyers-- Health Defense Fund Suit -- Contractor Vaccination EO

FYI

----- Forwarded message -----

From: **Jeffrey Koses - M1V** <jeffrey.koses@gsa.gov>

Date: Mon, Dec 13, 2021 at 7:18 AM

Subject: US Freedom Flyers-- Health Defense Fund Suit -- Contractor Vaccination EO

To: Nathan Guerrero - LP <nathan.guerrero@gsa.gov>

Cc: William Clark - M1V1CA <william.clark@gsa.gov>, Deb Erwin <deborah.erwin@gsa.gov>, Janet Fry - QVODA <janet.fry@gsa.gov>, Krystal Brumfield <krystal.brumfield@gsa.gov>, Saul Japson <saul.japson@gsa.gov>

**Suit from US Freedom Flyers, an association.
This one appears to be from a set of employees of
airlines and transportation federal contractors.**

Jeffrey A. Koses
Senior Procurement Executive
U.S. General Services Administration
703.605.5535

----- Forwarded message -----

From: **Lisa Campbell - H2A** <lisa.campbell@gsa.gov>

Date: Sun, Dec 12, 2021 at 2:09 PM

Subject: Scanned Mail

To: Jeffrey Koses - M1V <jeffrey.koses@gsa.gov>

Please see attached.

Regards,

Lisa M. Campbell
Director
DC Workplace Services Division (Central Office/NCR)
Office of Administrative Services
571-436-6250

--

Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813

Virtual Mtg (b) (6)

To: [Detko, Jason T. \(MSFC-LP010\)](#); [Jackson, Karla Smith \(HQ-LP010\)](#)
Cc: [Barber, Scott \(HQ-MD000\)](#); [Wise, Julia B. \(HQ-LP011\)](#)
Subject: RE: [EXTERNAL] [IAE-FACE] [Time-sensitive] Update on implementation of EO 14042
Date: Thursday, January 13, 2022 10:27:52 AM

Good afternoon Karla and Jason,

GSA and DoD have taken slightly different approaches to the follow-on COVID/injunction guidance issued to their workforce and contractors. A summary of the guidance that GSA and DoD issued to their workforce is below:

1. GSA issued their initial [COVID deviation](#) turning on the COVID clause. They did not rescind their deviation. Due to the number of contracts/contractors they have, they posted guidance on their [website](#) as follows:
 - For existing contracts that include the language, the clause remains but the CO or contractor are to take no action to enforce the clause.
 - For future solicitations, they are silent, but generally speaking, most agencies will leave the clause in, include an injunction notice, and revive the clause or remove it depending on the outcome of the injunction.
2. DoD issued their initial [COVID deviation](#) to turn on the COVID clause and then issued a [second deviation](#) that superseded the initial deviation to comply with the injunction. This deviation provided the following guidance:

“Therefore, effective immediately, to ensure compliance with the preliminary injunctions, contracting officers shall not enforce the attached class deviation clause 252.223-7999, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors. Contracting officers **shall not include** the class deviation clause in new solicitations and **shall not enforce** the requirements of the clause in existing contracts, task orders, and delivery orders. In addition, contracting officers shall not include this class deviation clause in new contracts or orders and shall not amend existing contracts or orders to incorporate the class deviation clause.”

Our approach aligns with GSA’s guidance. This is also the path that all agencies generally take to preserve to minimize the and it is the approach we have taken on other similar approaches after a policy approach has been taken.

Julia Wise | Director, Office of Procurement
Procurement Management and Policy Division

NASA – Headquarters

W: 202-358-0020 | C: (b) (6) | julia.b.wise@nasa.gov

From: Detko, Jason T. (MSFC-LP010) <jason.t.detko@nasa.gov>
Sent: Wednesday, January 12, 2022 4:18 PM
To: Jackson, Karla Smith (HQ-LP010) <karla.s.jackson@nasa.gov>
Cc: Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>; Barber, Scott (HQ-MD000) <scott.barber@nasa.gov>; Detko, Jason T. (MSFC-LP010) <jason.t.detko@nasa.gov>
Subject: FW: [EXTERNAL] [IAE-FACE] [Time-sensitive] Update on implementation of EO 14042

Hi Karla,

Below is the note that I received from Scott regarding the Covid Clause for new solicitations. It appears that this guidance is very clear and directly on point. Therefore, I don't believe that we need to have a meeting.

However, would recommend that we move forward with revising the Procurement Dispatch language to be more succinct on what we need our folks to accomplish regarding these actions – simply state – include the clause and preamble language.

Julia – Karla would still like to verify that DoD and GSA are or are not following the same guidance. I have heard that they are not, but haven't seen anything in writing.

Thanks!
Jason

Jason T. Detko
NASA Deputy Assistant Administrator for Procurement
Agency Procurement Ombudsman / Competition Advocate

Office Phone - 202-358-4483
Mobile Phone - (b) (6)
Email – jason.t.detko@nasa.gov



From: Barber, Scott (HQ-MD000) <scott.barber@nasa.gov>
Sent: Wednesday, January 12, 2022 12:46 PM
To: Detko, Jason T. (MSFC-LP010) <jason.t.detko@nasa.gov>
Subject: FW: [EXTERNAL] [IAE-FACE] [Time-sensitive] Update on implementation of EO 14042

Jason,

(b) (5)

Scott

From: Kauffman, Victoria (HQ-MD000) <victoria.h.kauffman@nasa.gov>
Sent: Wednesday, January 12, 2022 9:26 AM
To: Barber, Scott (HQ-MD000) <scott.barber@nasa.gov>
Subject: FW: [EXTERNAL] [IAE-FACE] [Time-sensitive] Update on implementation of EO 14042

Scott, below is the OMB Guidance on the EO 14042 injunction. See my highlights for what to do with existing solicitations. As I recall, Geoff and I read the "For all other solicitations to which EO 14042 applies....." to mean "in the absence of the injunction," which is why we landed on including the clause in new solicitations with the "nonenforcement preamble" language as described. As I mentioned last night, we decided it was more preferable to include the clause and have to remove it later (if the injunction becomes permanent) vs. not including the clause in solicitations and then having to negotiate adding the clause after award (if the injunction is ultimately reversed).

Happy to discuss.

From: Allison VanOcker <allison.vanocker@gsa.gov>
Sent: Thursday, December 9, 2021 10:07 AM
To: Financial Assistance Committee for E-Government <iae-face@gsa.gov>
Subject: [EXTERNAL] [IAE-FACE] [Time-sensitive] Update on implementation of EO 14042

On December 1, 2021, OMB issued initial guidance on implementing requirements of Executive Order 14042 while ensuring compliance with a court order covering the States of Kentucky, Ohio, and Tennessee. That guidance is hereby rescinded. Since the issuance of that initial guidance, another court has issued a nationwide injunction-an order that bars enforcement of the Executive Order in any state or outlying area of the United States. Both court orders are preliminary and may be supplemented, modified, or vacated, depending on the course of ongoing litigation. Given the uncertainty surrounding the court orders, OMB has formulated this updated guidance to be applicable even if the existing court orders change or new orders are issued.

Agencies should follow the instructions provided in this updated guidance to ensure compliance with currently applicable court orders.

I. For existing contracts or contract-like instruments (hereinafter "contracts") that contain a clause implementing requirements of Executive Order 14042

Agencies shall notify the contractor of the following:

The Government will take no action to enforce the clause implementing requirements of Executive Order 14042, absent further written notice from the agency, where the place of performance

identified in the contract is in a U.S. state or outlying area subject to a court order prohibiting the application of requirements pursuant to the Executive Order (hereinafter, "Excluded State or Outlying Area"). In all other circumstances, the Government will enforce the clause, except for contractor employees who perform substantial work on or in connection with a covered contract in an Excluded State or Outlying Area, or in a covered contractor workplace located in an Excluded State or Outlying Area. A current list of such Excluded States and Outlying Areas is maintained at <https://www.saferfederalworkforce.gov/contractors/>.

Agencies may provide that notification, as well as any other contractor notification required by this guidance, by posting the necessary information in a centralized location monitored by contractors, such as sam.gov.

II. For existing contracts that do not include a clause implementing requirements of Executive Order 14042

A. If the work under such a contract is performed entirely in an Excluded State or Outlying Area, the agency must not attempt to add a clause implementing requirements of the Executive Order into the contract.

B. For all other contracts to which the Executive Order applies, when exercising an option, issuing a new order under the contract, or extending the term of the contract, the agency must pursue bilateral modification of the contract to include the clause. If the agency is not exercising an option, issuing a new order, or extending the contract's term, the agency may pursue bilateral modification to include the clause. In either case, when requesting that a contractor agree to the addition of the clause, the agency must inform the contractor of the following:

The Government will take no action to enforce the clause implementing requirements of Executive Order 14042, absent further written notice from the agency, where the place of performance identified in the contract is in a U.S. state or outlying area subject to a court order prohibiting the application of requirements pursuant to the Executive Order (hereinafter, "Excluded State or Outlying Area"). In all other circumstances, the Government will enforce the clause, except for contractor employees who perform substantial work on or in connection with a covered contract in an Excluded State or Outlying Area, or in a covered contractor workplace located in an Excluded State or Outlying Area. A current list of such Excluded States and Outlying Areas is maintained at <https://www.saferfederalworkforce.gov/contractors/>.

III. For solicitations (existing or future), including solicitations for new orders to be issued under existing indefinite delivery/indefinite quantity contracts not containing a clause that implements requirements of Executive Order 14042

A. **If the solicitation indicates that work under the contract to be awarded will be performed entirely in an Excluded State or Outlying Area, the solicitation should not include a**

clause implementing requirements of Executive Order 14042. If the solicitation does include such a clause, the agency must remove it through an amendment to the solicitation.

B. For all other solicitations to which Executive Order 14042 applies, the agency must include a clause implementing requirements of the Executive Order and a provision stating as follows:

The Government will take no action to enforce the clause implementing requirements of Executive Order 14042, absent further written notice from the agency, where the place of performance identified in the contract is in a U.S. state or outlying area subject to a court order prohibiting the application of requirements pursuant to the Executive Order (hereinafter, "Excluded State or Outlying Area"). In all other circumstances, the Government will enforce the clause, except for contractor employees who perform substantial work on or in connection with a covered contract in an Excluded State or Outlying Area, or in a covered contractor workplace located in an Excluded State or Outlying Area. A current list of such Excluded States and Outlying Areas is maintained at <https://www.saferfederalworkforce.gov/contractors/>.

If an existing solicitation to which Executive Order 14042 applies does not contain both the implementing clause and the provision described above, the agency must amend the solicitation to add those terms.

Note: The court orders only apply to the application of requirements pursuant to Executive Order 14042. There is no change to the Safer Federal Workforce Task Force's guidance for COVID-19 workplace safety protocols for Federal agencies. Federal agency workplace safety protocols for Federal buildings and Federally controlled facilities still apply in all locations. Contractor employees working onsite in those facilities must still follow those Federal agency workplace safety protocols.

Agencies must adhere to this guidance to ensure that the Government meets its legal obligations. If agency Chief Acquisition Officers or senior procurement executives have questions or need further information about this guidance, they should contact Barbara Thomas in the OMB Office of General Counsel at (b) (6) mailto:(b) (6)

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Financial Assistance Committee for E-Government email distribution

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From: [Janet Fry - M1V1CA](#)
To: [Thompson, Diane \(HQ-LP011\)](#)
Cc: [William Clark - M1V1C](#); [Wise, Julia B. \(HQ-LP011\)](#)
Subject: [EXTERNAL] Re: Contractor COVID-19 Testing Requirement
Date: Thursday, January 13, 2022 12:43:36 PM

Diane,

I am working with the GSA Policy office to obtain a response for you.

Janet



U.S. General Services Administration

Janet M. Fry
Director
Federal Acquisition Policy Division
Office of Government-wide Policy
Phone: 703-774-5274

On Thu, Jan 13, 2022 at 11:21 AM Thompson, Diane (HQ-LP011)
<diane.thompson@nasa.gov> wrote:

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Regards,

Diane

<https://www.saferfederalworkforce.gov/faq/vaccinations/>

Q: Do onsite contractor employees need to provide proof of a negative COVID-19 test?

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Diane Thompson

FAR Regulatory Manager, NASA

Procurement Management and Policy Division

Office of Procurement

National Aeronautics and Space Administration

300 E St SW, Washington DC 20546

202.358.0514 (office)

(b) (6) (cell)



From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Janet Fry - M1V1CA](#)
Subject: RE: [EXTERNAL] Re: Contractor COVID-19 Testing Requirement
Date: Thursday, January 13, 2022 1:08:30 PM

Thanks Janet!

From: Janet Fry - M1V1CA <janet.fry@gsa.gov>
Sent: Thursday, January 13, 2022 1:43 PM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Cc: William Clark - M1V1C <william.clark@gsa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
Subject: [EXTERNAL] Re: Contractor COVID-19 Testing Requirement

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Janet

	U.S. General Services Administration Janet M. Fry Director Federal Acquisition Policy Division Office of Government-wide Policy Phone: 703-774-5274
--	--

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Diane Thompson

FAR Regulatory Manager, NASA

Procurement Management and Policy Division

Office of Procurement

National Aeronautics and Space Administration

300 E St SW, Washington DC 20546

202.358.0514 (office)

(b) (6) (cell)



From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Wise, Julia B. \(HQ-LP011\)](#)
Cc: [Thompson, Diane \(HQ-LP011\)](#)
Subject: FW: [EXTERNAL] FW: CAAC Request: Contractor COVID-19 Testing Requirement
Date: Thursday, January 13, 2022 3:36:10 PM

Hi Julia:

I'm forwarding the response from Dept of Education, as they did not cc you on their information.
I'm out of the office tomorrow/Friday, but will consolidate any responses next week.

Regards,
Diane

Referred to Department of Education

Referred to Department of Education

From: William Clark - M1V1C <william.clark@gsa.gov>

Sent: Thursday, January 13, 2022 1:59 PM

To: &CAAC_RelatedDistributionList <CAAC_RelatedDistributionList@gsa.gov>

Subject: Fwd: CAAC Request: Contractor COVID-19 Testing Requirement

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear CAAC Colleagues:

See the attached email from your NASA CAAC representative. They are seeking information by tomorrow 1/14/22, but they are willing to share information gathered as well.

Thanks,

Bill

----- Forwarded message -----

From: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>

Date: Thu, Jan 13, 2022 at 1:35 PM

Subject: CAAC Request: Contractor COVID-19 Testing Requirement

Email Already Processed

Email Already Processed

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Bill Clark, Director
General Services Administration
Office of Government-wide Acquisition Policy
Office of Acquisition Policy
Office of Government-wide Policy
202-219-1813
Virtual Mtg (b) (6)

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CAAC_RelatedDistributionList+unsubscribe@gsa.gov.

From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Moore, Constance](#)
Subject: RE: [EXTERNAL] FW: CAAC Request: Contractor COVID-19 Testing Requirement
Date: Thursday, January 13, 2022 3:47:18 PM

Hi Connie:

I appreciate your prompt reply.

Regards,

Diane

Diane Thompson

FAR Regulatory Manager, NASA

Procurement Management and Policy Division

Office of Procurement

National Aeronautics and Space Administration

300 E St SW, Washington DC 20546

202.358.0514 (office)

(b) (6) (cell)



Referred to Department of Education

Referred to Department of Education

From: William Clark - M1V1C <william.clark@gsa.gov>

Sent: Thursday, January 13, 2022 1:59 PM

To: &CAAC_RelatedDistributionList <CAAC_RelatedDistributionList@gsa.gov>

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From: **Thompson, Diane (HQ-LP011)** <diane.thompson@nasa.gov>

Date: Thu, Jan 13, 2022 at 1:35 PM

Subject: CAAC Request: Contractor COVID-19 Testing Requirement

To: William Clark - M1V1C <william.clark@gsa.gov>

Cc: Janet Fry - M1V1CA <janet.fry@gsa.gov>, Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>

Hi Bill:

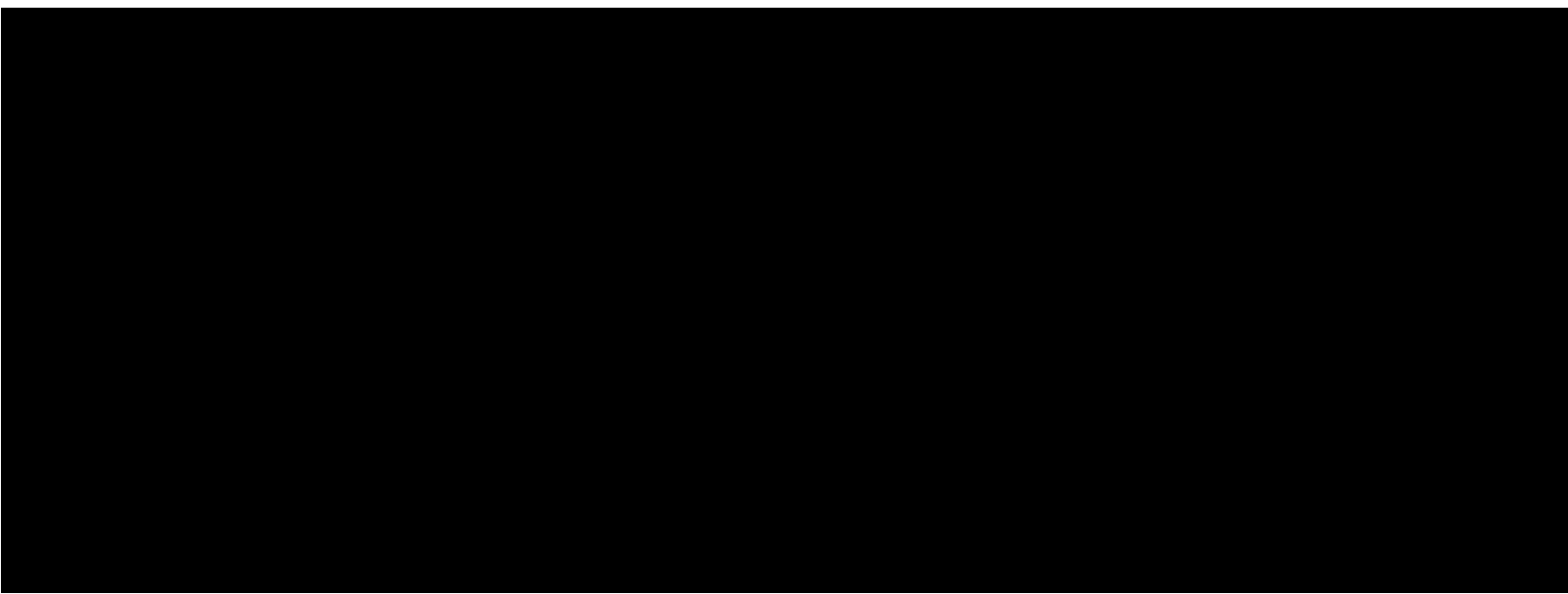
I've been asked to obtain policy that has been developed by other agencies concerning the COVID testing of contractors in response to the White House guidance on testing found at <https://www.saferfederalworkforce.gov/faq/testing/>.

Can you survey the CAAC to see what the other civilian agencies are doing specific to testing? We are requesting a link to agencies' guidance on contractor COVID-19 testing requirements, and we are willing to share any benchmarking information received with others.

This is an urgent request, so we'd appreciate a response NLT tomorrow 1/14/2022 to Diane Thompson (diane.thompson@nasa.gov) and to Julia Wise (julia.b.wise@nasa.gov). Please let me know if this deadline presents a difficulty.

Regards,
Diane

Diane Thompson
FAR Regulatory Manager, NASA
Procurement Management and Policy Division
Office of Procurement
National Aeronautics and Space Administration
300 E St SW, Washington DC 20546
202.358.0514 (office)
(b) (6) (cell)



From: [Thompson, Diane \(HQ-LP011\)](#)
To: [Janet Fry - M1V1CA](#)
Cc: [William Clark - M1V1C](#); [Wise, Julia B. \(HQ-LP011\)](#)
Subject: RE: [EXTERNAL] Re: Contractor COVID-19 Testing Requirement
Date: Tuesday, January 18, 2022 8:50:53 AM

Hi Janet:

Have you heard from the GSA policy office on the contractor COVID testing? If testing is required for onsite access, we're also interested in any GSA-developed contract clause that you could share.

Regards,

Diane

Diane Thompson

FAR Regulatory Manager, NASA

Procurement Management and Policy Division

Office of Procurement

National Aeronautics and Space Administration

300 E St SW, Washington DC 20546

202.358.0514 (office)

(b) (6) (cell)



From: Janet Fry - M1V1CA <janet.fry@gsa.gov>
Sent: Thursday, January 13, 2022 1:43 PM
To: Thompson, Diane (HQ-LP011) <diane.thompson@nasa.gov>
Cc: William Clark - M1V1C <william.clark@gsa.gov>; Wise, Julia B. (HQ-LP011) <julia.b.wise@nasa.gov>
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	Director
	Federal Acquisition Policy Division
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	Phone: 703-774-5274

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Procurement Management and Policy Division
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National Aeronautics and Space Administration
300 E St SW, Washington DC 20546
202.358.0514 (office)

(b) (6) (cell)



From: [McAlister, Beverly D. \(HQ-IM050\)](#)
To: [Schaus, Margaret V. \(HQ-IA000\)](#); [Shinn, Stephen A. \(HQ-IA000\)](#); [Comstock, Doug \(HQ-IA000\)](#); [Kerwin, Mary D. \(HQ-IA000\)](#); [Kroskey, Susan P. \(KSC-GG000\)](#); [Detka, Eileen \(HQ-IM030\)](#)
Cc: [Holstien, Eameal C. \(JSC-LA111\)](#); [Back, Kyle W. \(HQ-IA000\)](#); [Wunderlick, Linda K \(GSFC-150.0\)\[ASRC FEDERAL SYSTEM SOLUTIONS\]](#)
Subject: CFOC-ADVISORY - Update on Federal Contractor Vaccination Requirement
Date: Monday, November 15, 2021 7:31:13 AM
Attachments: [USG Background EO 14042 Contractor COVID Safety 20211110 for agencies.pdf](#)

Good Morning Everyone,

Sharing for your awareness the attached Executive Order for Contractor COVID Safety. Guidance encourages Agencies to share the guidance, and the accompanying Frequently Asked Questions included with their acquisition workforce and industry partners. Procurement is the lead however, if OCFO has a role please advise who this should be forwarded to. Thank you!

All the best!

Beverly

From: CFOC Advisory <CFOC-ADVISORY@LISTSERV.GSA.GOV> **On Behalf Of** CFO Council Support
Sent: Friday, November 12, 2021 1:25 PM
To: CFOC-ADVISORY@LISTSERV.GSA.GOV
Subject: [EXTERNAL] [CFOC-ADVISORY] Update on Federal Contractor Vaccination Requirement

Good morning,

On Thursday, November 4, the Administration [announced](#) steps it is taking to streamline the implementation of [Executive Order \(EO\) 14042](#) on *Ensuring Adequate COVID Safety Protocols for Federal Workers* with two newly released rules: the [OSHA COVID-19 Vaccination and Testing Emergency Temporary Standard](#) ("ETS") and the Centers for Medicare & Medicaid Services (CMS) requirement that health care workers at facilities participating in Medicare and Medicaid be fully vaccinated ("CMS rule").

To implement those streamlining steps, on Wednesday, November 10, the Safer Federal Workforce Task Force (Task Force) issued [updated guidance for Federal contractors and subcontractors](#) (Guidance), which was approved by the Director of the Office of Management and Budget (OMB), pursuant to Section 2 of EO 14042. The updated Guidance can be found at: <https://www.saferfederalworkforce.gov/contractors/>. The OMB Director's determination that the Guidance will promote economy and efficiency in Federal contracting will be published in the Federal Register for comment; an advance copy can be found at: <https://public-inspection.federalregister.gov/2021-24949.pdf>.

The updated Guidance states that Federal contractor and subcontractor employees covered under the requirements of EO 14042 will now need to have their final vaccination dose by **January 4, 2022**, so that they are fully vaccinated by **January 18, 2022**. After that date, all covered contractor employees must be fully vaccinated by the first day of the period of performance on a newly awarded covered contract, and by the first day of the period of performance on an exercised option or extended or renewed contract when the clause has been incorporated into the covered contract.

This change aligns the deadline for the contractor vaccination requirement with similar requirements in the CMS rule and the ETS. No other changes have been made to the Guidance from the version that was in effect prior to this update.

The updated Guidance will be automatically incorporated into contractor requirements through the provision in the contract clause: *"The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>."*

Although the date for full vaccination among covered contractor employees has been moved, **there has been no change to the effective dates in the EO**. This includes requirements to modify covered existing contracts at the point of option exercise or extension and to include the COVID clause in new contracts awarded on or after November 14 from solicitations issued before October 15 or new orders awarded on or after November 14 from solicitations issued before October 15 under existing indefinite-delivery contracts.

As a reminder, the deadline for the COVID-19 vaccination requirement for Federal employees remains November 22, 2021.

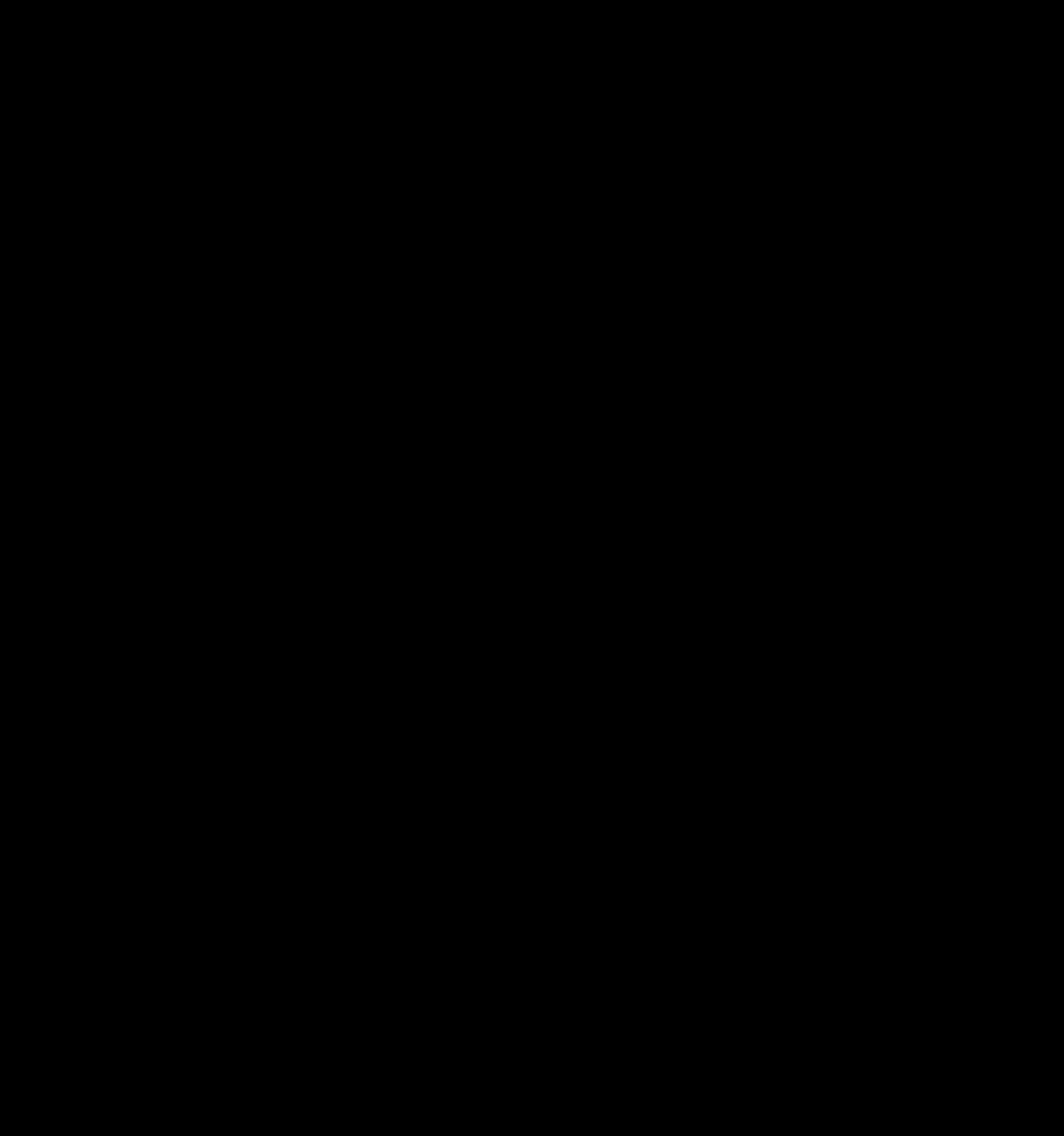
Please see attached for updated additional key information for internal Government-only use regarding implementation of EO 14042.

We will continue interagency discussion about the implementation of EO 14042 during our weekly CAOC-SPE Office Hours, with the next call taking place this coming Friday, November 12, 1:30 PM to 2:00 PM EST. For the following call on Friday, November 19, also 1:30 PM to 2:00 PM EST, in particular, we request that Chief Acquisition Officials and Senior Procurement Executives attend.

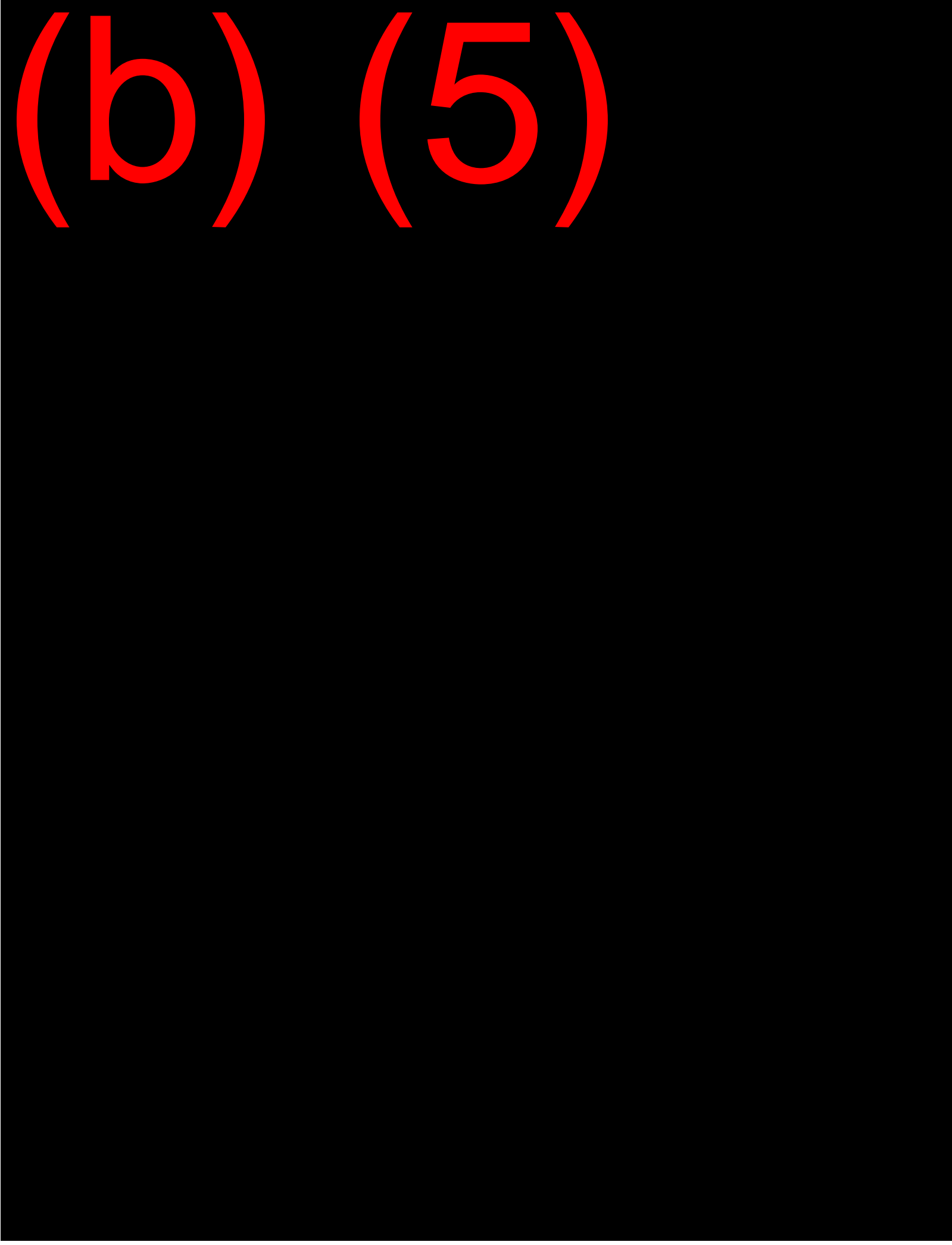
Thank you for all you and your teams are doing to advance the health, safety, efficiency, and effectiveness of the Federal workforce, including Federal contractor employees.

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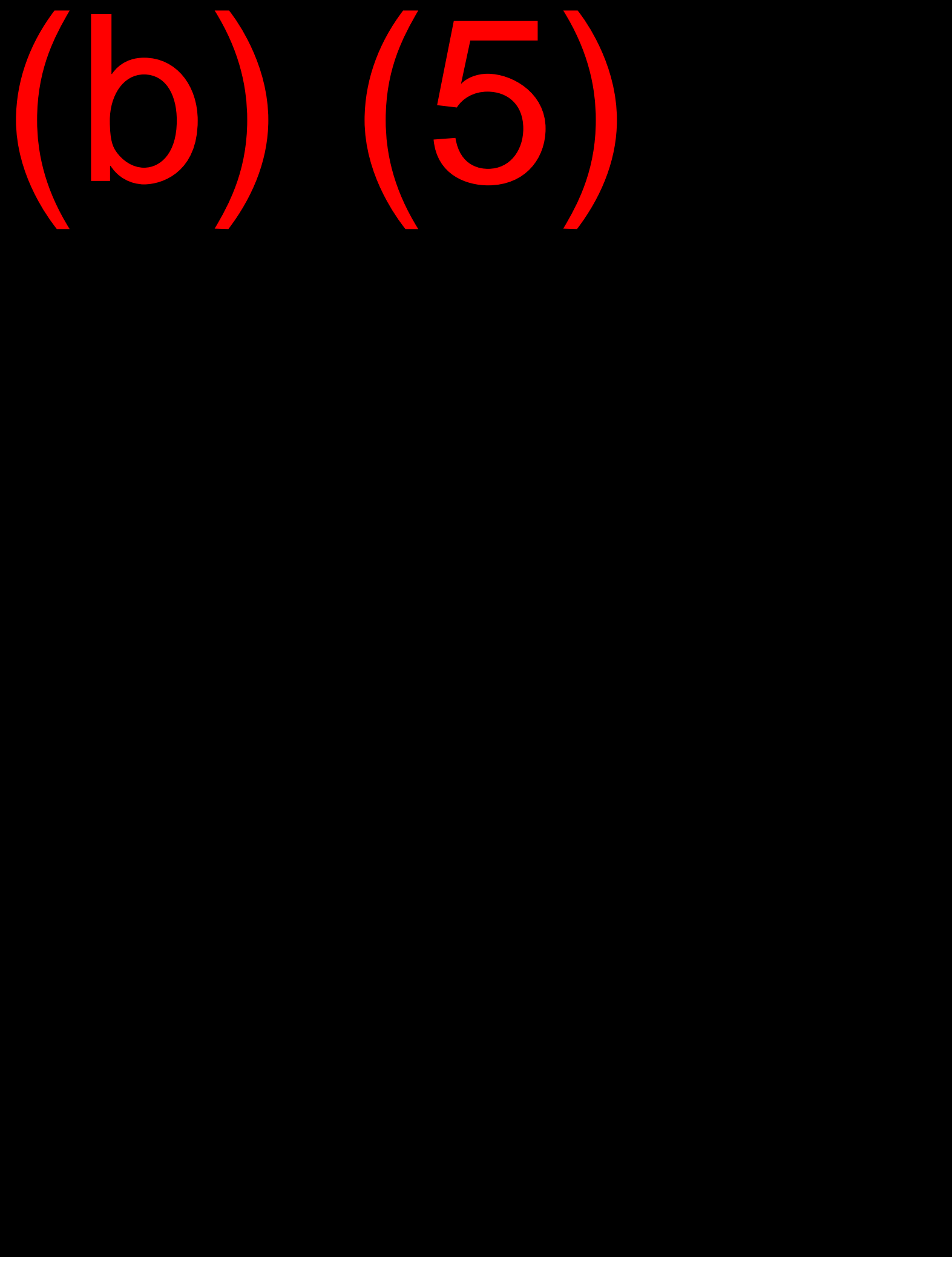


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(b) (5)

(b) (5)



From: [Jackson, Karla Smith \(HQ-LP010\)](#)
To: [Schaus, Margaret V. \(HQ-IA000\)](#); [Detko, Jason T. \(MSFC-LP010\)](#)
Cc: [Shinn, Stephen A. \(HQ-IA000\)](#)
Subject: Re: [EXTERNAL] [CFO-DCFO] [Time-sensitive] Update on Implementation of EO 14042
Date: Wednesday, December 1, 2021 4:38:00 PM

Thanks Margaret,

Yes I've been working this since morning with OMB. We helped them craft the answers to the FAQs but I definitely appreciate the email. I'm glad they distributed widely.

The plot thickens on COVID clause implementation...

On: 01 December 2021 16:29, "Schaus, Margaret V. (HQ-IA000)"
<margaret.v.schaus@nasa.gov> wrote:

Hopefully you've already seen this, and wanted to pass on in case.

Begin Forwarded Message:

From: "CFO Council Support" <cfoc.support@GSA.GOV>
Subject: [EXTERNAL] [CFO-DCFO] [Time-sensitive] Update on Implementation of EO 14042
Date: 01 December 2021 15:47
To: "CFO-DCFO@LISTSERV.GSA.GOV" <CFO-DCFO@LISTSERV.GSA.GOV>

Good Afternoon CFOC Community,

Please see below for a time-sensitive communication regarding implementation of Executive Order 14042 from the Office of Management and Budget (OMB):

On November 30, 2021, a Federal district court temporarily enjoined implementation of provisions of Executive Order 14042 in three states. The court order covers the States of Kentucky, Ohio, and Tennessee. This memorandum informs agencies of the actions that must be taken to ensure compliance with that court order.

The Department of Justice is currently reviewing the court order to determine its scope and to decide on next steps in the ongoing litigation. In time, as the litigation continues and agencies implement the court order, additional or amended guidance may be issued to address new legal developments, resolve logistical difficulties, or mitigate disruption to the procurement process. In the meantime, pending further direction, agencies must follow this preliminary guidance to ensure compliance with the court order.

For existing contracts and contract-like instruments (hereinafter

“contracts”), including extensions and renewals, that are performed at least in part in Kentucky, Ohio, and/or Tennessee:

If the contract includes a clause requiring compliance with guidance issued by the Safer Federal Workforce Task Force (“Task Force guidance”), the administering agency must take no action to enforce that clause and should inform the contractor that the clause will not be enforced absent further notice from the agency.

If the contract or order does not include a clause requiring compliance with Task Force guidance, the administering agency must refrain from attempting to insert such a clause into the document. The agency should not ask that the contractor voluntarily agree to the insertion of such a clause.

For existing solicitations for services that may be performed at least in part in Kentucky, Ohio, and/or Tennessee:

If the solicitation includes a provision that would require compliance with Task Force guidance, the issuing agency shall issue a solicitation amendment either removing that provision or providing that the provision would not be enforced in contracts subject to the court order. The agency should comply with all applicable legal requirements for full and open competition.

If the solicitation contains no clause requiring compliance with Task Force guidance, the agency shall not seek to add one, unless it provides that the provision would not be enforced in contracts subject to the court order.

For future solicitations, contracts, and orders that may be performed at least in part in Kentucky, Ohio, and/or Tennessee:

Absent further direction from OMB, agencies shall not include a clause requiring compliance with Task Force guidance in new solicitations, contracts, or orders, including extensions or renewals, that may be performed at least in part in Kentucky, Ohio, and/or Tennessee, unless the clause provides that it would not be enforced in contracts or orders subject to the court order. In some cases, agencies may be unable to determine in advance whether work under a given solicitation will be performed in any of those states. In those cases, the solicitation must not include a clause requiring compliance with Task Force guidance, unless the clause provides that it would not be enforced in contracts or orders subject to the court order.

For existing and future contracts and orders, including extensions and renewals, that are known to be performed entirely outside of Kentucky, Ohio, and/or Tennessee:

No change in approach is required. The court order applies only to

contracts that are performed at least in part in Kentucky, Ohio, or Tennessee. If contracting officers or other cognizant agency personnel are unsure whether performance on a given contract takes place at least in part in one of those three states, they should immediately request that information from the contractor. If still in doubt, they should treat the contract as if it is being performed at least in part in Kentucky, Ohio, and/or Tennessee, and follow the guidance above.

Agencies must adhere to this guidance to ensure that the Government meets its legal obligations. If agency Chief Acquisition Officers or senior procurement executives have questions or need further information about this guidance, they should contact Barbara Thomas in the OMB Office of General Counsel at

(b) (6)

Thank you for your continued support.
Best regards,
Your CFOC Support Team